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ABSTRACT

Focusing on the development of unemployment insurance since the first federal legislation was enacted in 1935, this report provides the background and highlights of federal and New York State laws on coverage, the amount and direction of benefits, entitlement and disqualification provisions, and methods of financing. The first of three sections focuses on the Social Security Act and describes the development of unemployment insurance in other countries, early developments in the United States, and the framework of the federal-state system. Developments in federal unemployment insurance coverage and administration financing are described in section 2. Specific topics addressed include early coverage limitations, amendments to the federal definition of employment, the extension of coverage under federal law, the extension of benefit duration under federal-state laws, and financing administrative costs. Section 3 expounds upon unemployment insurance developments in New York State. Appended material includes a chronology of significant changes in federal unemployment insurance legislation for 1935-1977 and a chronology of significant changes in the New York State unemployment insurance law for the same period. (LRA)

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A History of Unemployment Insurance Legislation in the United States and New York State 1935 - 1977

STATE OF NEW YORK
Hugh L. Carey, Governor
DEPARTMENT OF LABOR
Philip Ross, Industrial Commissioner

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This report was prepared by Ruth Entes of the Bureau of Research and Evaluation. It brings up to date an earlier publication, "A History of Unemployment Insurance Legislation in the United States and New York State, 1935-1973" (Publication B-199, December 1973).

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PREFACE

The advantages of unemployment insurance are generally recognized. The system provides income support to millions of unemployed workers every year and thus, by maintaining purchasing power, minimizes economic recessions.

Unemployment insurance legislation, at the Federal and State levels, has been amended frequently over the years. Some improvements have been necessary because of shortcomings in the system from the beginning; others have stemmed from changes in employment, unemployment, and earnings.

This report provides the background and highlights of Federal and New York State laws on coverage, the amount and duration of benefits, entitlement and disqualification provisions, and methods of financing. Thus it is a ready reference on the development of unemployment insurance since the first Federal legislation was enacted in 1935.

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I. THE SOCIAL SECURITY ACT

When unemployment insurance was being considered as part of the Social Security Act in 1934 and 1935, the number of unemployed workers in the United States was estimated at 11 to 15 million. State relief programs had broken down and were supplemented by one Federal program after another. The presidentially appointed Committee on Economic Security and the Congressional committees considering the legislation faced the problem of devising an unemployment insurance program that would fit into the Federal-State political system. Supporters of a workmen's compensation approach took the states' rights viewpoint, advocating a "state laboratory" system for experimenting "close to the grass roots." Besides, it was feared that a Federal system would be declared unconstitutional because of possible encroachment on states' rights.

In enacting the unemployment insurance provisions of the Social Security Act in 1935, Congress recognized both national and state concern over unemployment and measures to alleviate it. Since any unemployment affects the whole nation as well as the state where it occurs, Federal Government action was considered as part of its responsibility for the general welfare. But Congress also considered it feasible and desirable for the states to administer unemployment insurance programs to meet local needs.

The planning of this legislation was influenced by many preceding programs—those in other countries, voluntary plans in this country, state workmen's compensation laws, and the Wisconsin unemployment insurance law.

UNEMPLOYMENT INSURANCE IN OTHER COUNTRIES

The first unemployment insurance benefits in Europe were provided under voluntary plans which trade unions started for their members. The best known were started by small local unions in Belgium, in Liege in 1897 and Ghent in 1901. The first successful government actions in this field were subsidies to trade union plans. Over the years the need for pooling the financial risk forced many voluntary union plans to merge into national programs. In 1920, the Belgian government welded union programs into the semblance of a national system, with centralized control of funds and national subsidies as needed.

Compulsory unemployment insurance legislation was enacted in Europe decades before any such law was passed in the United States — the first national system in Great Britain in 1911. By 1935, when the Social Security Act was passed in this country, all or part of 10 nations had compulsory unemployment insurance laws and another 10 had systems of government subsidies to voluntary plans.

Laws subsidizing voluntary insurance systems	Compulsory unemployment insurance laws
1902 - France	1911 - Great Britain
1907 - Denmark	1919 - Italy
1915 - Norway	1920 - Austria
1916 - Netherlands	1920 - Irish Free State
1917 - Finland	1922 - Queensland, Australia
1920 - Belgium	1924 - Poland
1921 - Czechoslovakia	1925 - Bulgaria
1924 - Switzerland (12 cantons)	1925 - Switzerland (13 cantons)
1931 - Spain	1927 - Germany
1934 - Sweden	1935 - Canada

Foreign systems derived financial support from employees and general revenues as well as from employers. The British system was financed by flat-rate contributions from employers, employees, and the national government. As amended through February 1935, the British act covered most nonagricultural workers 16 to 64 years of age except nonmanual workers who earned more than 250 pounds a year. Benefits, payable for 26 weeks, varied according to age and sex. British statutory regulations for payment of benefits and provisions on waiting period, availability, and disqualification were substantially incorporated into the original state laws in this country, as was the concept of administration through local employment exchanges.

EARLY DEVELOPMENTS IN THE UNITED STATES

In the early 1930's, only a few groups of workers in the United States were protected against unemployment, and these plans had limited value in formulating a comprehensive system. In 1934, trade union plans covered about 100,000 workers; joint union-management plans covered about 65,000, mostly in the garment trades; and voluntary company plans covered another 70,000. These last were mostly guaranteed employment plans, modest in scope and in coverage, to protect seasonal workers in the off season.

Proposals for State Legislation

The first state unemployment insurance laws proposed in the United States, bills modeled after the British Act of 1911, were introduced in the Massachusetts Legislature in 1916 and in New York State in 1921. Neither bill passed, nor did bills introduced in New York and several other states during the 1920's. It took the Depression of the 1930's to spark widespread interest in laws to help unemployed workers.

The Wisconsin Law

The most persistent efforts were in Wisconsin. Largely as the result of efforts by Professor John R. Commons and his associates at the University of Wisconsin, every Legislature from 1921 to 1931 considered an unemployment insurance bill. Early proposals were modeled on workmen's compensation, the entire cost to be borne by employers, to encourage them to stabilize employment. A mutual insurance company was to carry the insurance and employers' contribution rates would vary according to their experience with unemployment (experience rating).

In a special session in 1931, Wisconsin passed this nation's first unemployment insurance act; it was signed into law in 1932. To allow time for setting up the administrative system and for accumulating a pool of employers' contributions, benefits were not paid until 1936.

Under the Wisconsin law, individual employer reserves would be maintained in a state fund. Each employer's reserve was to be used for benefits to his own workers when they became unemployed, and his contribution rate would vary according to the benefits paid. When the per employee amount in his reserve accumulated to a certain level, the employer's contributions were suspended. The amount and duration of benefits for each claimant were determined separately for each employer according to the claimant's employment and wages with him.

Ohio Pooled Fund

In 1932, the Ohio Commission on Unemployment Insurance recommended a different kind of plan. This provided for a statewide pooled fund, employer and employee contributions with no variation in rates, weekly benefits related to base-period wages from all of the claimant's employers, and a uniform maximum of 26 weeks of benefits for all eligible claimants. The plan's emphasis was on the social aspects of unemployment and on conditions that create unemployment beyond an individual employer's responsibility.

Other States

No other state took action until 1935, when six states—New York, California, Massachusetts, New Hampshire, Utah, and Washington—passed legislation in anticipation of the Federal Social Security Act. These early laws were amended in the next legislative session in each state, to conform them to the Federal law.

Proposals for Federal Legislation

Interest in a national unemployment insurance law was evident as early as 1916, when a resolution was introduced in Congress to create a commission to draft such legislation. The resolution did not pass, and Congress evidenced no further interest for a decade.

In 1928 and 1931, the Senate Committee on Education and Labor held hearings on the national problem of unemployment and on foreign countries' experience with unemployment insurance. In 1931 and again in 1934, Senator Robert F. Wagner of New York State introduced legislation for a Federal-State system, but these bills never came to a vote.

In June 1934, President Franklin D. Roosevelt appointed a Committee on Economic Security to study the problem of unemployment as part of the whole problem of economic instability. The committee's final report, transmitted to Congress in January 1935, included a recommendation for providing security for all unemployed. Senator Wagner and others subsequently introduced bills embodying the committee's detailed recommendations.

FRAMEWORK OF THE FEDERAL-STATE SYSTEM

The national program of unemployment insurance was instituted under two titles of the Social Security Act, which Congress passed in August 1935 by an overwhelming bipartisan vote: Title III, "Grants to the States for Unemployment Compensation Administration," and Title IX, "Tax on Employers of Eight or More." Much of Title IX was later incorporated in the Internal Revenue Code, as the Federal Unemployment Tax Act.

The constitutionality of the state and Federal laws was challenged in several states as soon as unemployment insurance taxes became payable on employment after January 1, 1936. The U.S. Supreme Court upheld the constitutionality of the New York law in November 1936, and that of the Social Security Act and the Alabama Unemployment Compensation Act in May 1937.

The type of Federal-State cooperation provided in this legislation had never been tried in any other governmental activity. The act did not set up a Federal system of unemployment benefits comparable to the Federal old age insurance system, nor did it provide grants to the states for unemployment benefits, comparable to the matching grants provided for public assistance payments.

Instead, it levied a tax on all employers in industry and commerce who had eight or more workers for at least 20 weeks in a year. The Federal tax was 1 percent of payrolls for 1936, 2 percent for 1937, and 3 percent for 1938.

Since all employers were taxed, each state could assist its unemployed without putting its industries at an economic disadvantage with those in other states. Through a tax offset provision, the Federal act actually made it advantageous for states to enact laws to pay unemployment benefits. This entitled an employer to credit payments under a state law against up to 90 percent of his Federal tax due. Employers were also credited for contributions they were excused from paying under a state experience rating sytem.

The Federal law contained a number of standards for administration, policy, and coverage. Effective in 1940, the Federal law required the states to operate a merit system for employment security personnel. A state which failed to meet Federal standards could be penalized in two ways:

- Federal funds for state administration costs could be withheld.
- Employers could be denied credit against the Federal unemployment insurance tax for their contributions under the state law.

Approval by the Social Security Board (later, by the U.S. Secretary of Labor) was needed for Federal certification that a state unemployment insurance law met the required conditions. (Judicial review of the Secretary of Labor's decisions in state conformity or compliance proceedings was first provided for in 1970.)

Although the cost of administering state unemployment insurance programs was financed entirely from the Federal share of the unemployment insurance tax, Congress was required to appropriate funds annually.

To safeguard the financial stability of the system, the Federal law required each state to deposit the taxes it collected in an Unemployment Insurance Trust Fund set up by the U.S. Treasury, the money to be invested in United States government bonds. A separate account was kept for each state; a state could withdraw funds at any time, but only to pay unemployment benefits.

No state could reduce taxes below the standard rate (a rate equivalent to the 90 percent Federal tax offset) except through a system of rating an individual employer according to his unemployment experience.

Benefits could be paid only through public employment offices or other federally approved agencies. The amount or duration of weekly benefits was not specified. Under the law, a claimant could not be denied benefits for refusing jobs that:

- Did not meet prevailing wages and conditions;
- Were vacant because of a labor dispute; or
- Required him to join a company union or forbade his joining a bona fide labor organization.

By July 1937, all 48 states, the District of Columbia, Alaska, and Hawaii had enacted unemployment insurance legislation, and by July 1939 were paying benefits to unemployed workers. Puerto Rico began paying benefits in 1959, but did not enter the Federal-State system until 1961. The Virgin Islands entered the system in 1961 but did not pay benefits until 1964.

Each state law specified which workers were covered, what taxes employers should pay, what benefits would be paid, requirements for receiving benefits, and what organization within the state government would administer the law. As one condition of eligibility, all states required claimants to register for work at a public employment office and to continue to report in accordance with the agency's regulations.

State provisions on coverage, in most cases, were at least as inclusive as the Federal ones. In cases where a state had more restrictive coverage—for instance, in defining an "employer"—an employer could be liable for the full Federal tax of the Federal law while his workers would not be eligible for benefits under the state law.

State financing provisions were related to the Federal tax: employers' taxes were ordinarily set at 90 percent of the Federal tax, the maximum credit offset. To finance benefits, most states adopted a "pooled-fund plan," commingling all money collected from employers and spreading the cost of the program among all employers.

II. DEVELOPMENTS IN FEDERAL UNEMPLOYMENT INSURANCE COVERAGE AND ADMINISTRATION FINANCING

The coverage provisions of the Federal and state unemployment insurance laws form the basic framework of the program. They determine which employers must make contributions and which workers may receive benefits. The exclusion of certain employing units and certain kinds of services limits coverage, but most states permit excluded groups to elect coverage voluntarily.

EARLY COVERAGE LIMITATIONS

When the Social Security Act of 1935 was adopted, it was generally accepted that, for administrative reasons, some size-of-firm restrictions were necessary. Consequently, the Federal unemployment tax provisions applied only to firms which employed eight or more persons, in the United States, in at least 20 weeks in a year. The original laws of 32 states set the same limitation; only 10 states began by covering firms with one or more workers.

Also, the original Social Security Act excluded a number of types of employment:

- Agricultural labor.
- Domestic work in a private home.
- Individuals employed by a son, daughter, or spouse, or children under 21 employed by a parent.
- Work for Federal, state, or local government.
- Officers and crews of vessels on the navigable waters of the United States.
- Employment by nonprofit institutions operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Agricultural, domestic, and to some extent family workers were excluded chiefly for administrative reasons. State and local governments were exempted because it was believed that it would be unconstitutional for the Federal government to tax these units. Federal and maritime workers were considered to be exclusively under Federal jurisdiction. The exclusion of religious and other nonprofit institutions followed the custom in other tax laws.

AMENDMENTS TO FEDERAL DEFINITION OF EMPLOYMENT

Legislative action and a few notable court decisions significantly modified the definition of employment over the years. Some changes brought workers into the program, others excluded some who had been protected.

In 1939, the nation's railroad workers were transferred from the Federal-State program to a Federal system under the Railroad Retirement Board.

"Agricultural labor" was defined by regulations of the Bureau of Internal Revenue until 1939, when amendments to the Social Security Act wrote into the law a definition which excluded more services. Among these were some essentially industrial activities in processing and marketing, and services performed on a farm but not for its owner or operator (harvesting a crop which has been sold to a cannery, for example).

A Supreme Court decision in June 1947 led to further restriction of coverage. The 1935 act said that "employment" meant any service not specifically excluded which was performed within the United States by an employee for his employer. The Supreme Court held that under this language, coverage was broader than it would have been under the common-law "master-servant" relationship. In 1948, a Congressional amendment limited the term "employee" to mean employees under the common-law rules, and made this definition retroactive to 1939. As a result, Federal unemployment insurance coverage was withdrawn from about one-half million persons, such as outside salesmen, who are not actually independent businessmen. This exclusion was repealed in recent years.

EXTENSION OF COVERAGE UNDER FEDERAL LAW

Under the 1939 amendments, Federal agencies not wholly owned by the government, such as national banks, became subject to the unemployment tax unless exempted by some other law, such as an act creating an agency, and states were specifically authorized to tax these agencies. The same amendments provided for covering agencies not wholly owned by a state or local government unless they had constitutional immunity.

The United States Supreme Court, ruling on a New York case in 1943, held that neither the Constitution nor Congressional enactments excluded maritime employment from coverage under state unemployment insurance. The Federal Unemployment Tax Act was amended in 1946 to assure such coverage, providing that maritime service could be taxed under the unemployment insurance law of the state in which was located the office of the company controlling the vessel involved. The only maritime employment now exempt are services by certain fishermen on small craft, and services for a foreign vessel, if the employee works on or in connection with the vessel outside the United States.

In a significant extension of coverage, the Federal Unemployment Tax Act was amended in 1954 (effective January 1, 1956) to cover employers of four or more workers in 20 or more weeks.

These amendments also extended protection to Federal civilian workers employed after December 31, 1954. In 1958, benefits were extended to ex-servicemen under Unemployment Compensation for Ex-servicemen (UCX). State agencies pay benefits to Federal employees and ex-servicemen under their own state provisions, and are reimbursed by the Federal Government.

There had been three prior temporary Federal programs for ex-servicemen: the Servicemen's Readjustment Allowances under the 1944 G.I. Bill of Rights, for unemployed World War II veterans; Reconversion Unemployment Benefits for Seamen, enacted in 1946 for unemployed members of the World War II Merchant Marine; and Unemployment Compensation for Veterans, adopted in 1952 for unemployed Korean War veterans.

The Employment Security Amendments Act of 1970 (PL 91-373), Congress's most significant unemployment insurance legislation in a decade, extended coverage effective in 1972 to:

- Employers who have one or more employees in 20 weeks in a calendar year or a quarterly payroll of $1,500.
- Nonprofit organizations of four or more employees (including colleges or universities but excluding schools that are not institutions of higher learning and religious organizations), state hospitals and state universities.
- Outside salesmen, like agents or drivers paid on a commission.
- A few categories of agricultural processing workers.
- U.S. citizens working for American firms outside the United States.

The 1970 act prohibited payment of benefits to teachers, administrators and professional research workers in state and private colleges or universities between successive academic years or two regular terms if they had a contract of employment for both periods. The act allowed local governments to elect coverage limited to the hospitals or schools and to exclude teachers from coverage if they so chose.

The Special Unemployment Assistance (SUA) Program provided temporary coverage, effective January 1975, to workers who were not covered by state laws but who otherwise met the individual state's earnings and eligibility requirements. These workers were mainly state and local government employees, domestic workers and farm workers. Benefit costs were paid by the Federal Government. Benefits were set at state scales; maximum duration, initially 26 weeks, was later extended to 39 weeks. The program was activated when the total unemployment rate averaged 6 percent or more nationally or 6.5 percent or more in an area defined as a prime-sponsor area under the Comprehensive Training and Employment Act of 1973. The national trigger was met when the law was passed and the program was immediately activated in states with

agreements with the Federal Government. The program was extended through successive legislation to June 25, 1978, except that no new claims are allowed after 1977.

Permanent coverage of many of these workers by the states as of January 1, 1978 was effected under the Federal Unemployment Compensation Amendments of 1976. The new coverage involves approximately 9,000,000 workers, over 90 percent of them state and local government workers. They can henceforth qualify for state unemployment insurance benefits under conditions applicable to other unemployed workers. Benefits based on services performed after 1977 will come from state funds. Benefits based on prior service with newly covered employers will be federally financed. The 1976 Federal law covers the following employers:

- Employers who had 10 or more agricultural workers in each of 20 weeks in the current or preceding calendar year or who paid cash wages to agricultural labor of $20,000 or more in a calendar quarter (crew leaders are considered employers under certain conditions).

- Employers of domestic workers with cash wages totaling $1,000 or more in a calendar quarter.

- States, cities and other local governmental organizations (certain specified categories of employees, e.g., elected or judicial officials, are excluded).

- Nonprofit elementary and secondary schools.

Disqualification provisions were modified by 1976 and 1977 legislation, effective in January 1978. School personnel who have a reasonable assurance of continuing employment are affected as follows:

- Benefits are denied between school years and terms to teachers and other professional workers in elementary and high schools, as well as to those in colleges and universities.

- States are permitted to deny benefits between school years and terms to nonprofessional staff in elementary and high schools.

- States are permitted to deny benefits to the above groups during school holidays and vacation periods.

Other new disqualification provisions are: denial of benefits to professional athletes between successive sports seasons if they have reasonable assurance of employment for both periods, denial of benefits to illegal aliens, and prohibition from disqualifying a claimant solely because of pregnancy.

The unemployment insurance system at its start covered about 65 percent of wage and salary workers in the United States. As of 1972, 85 percent of the workers were covered. As of 1978, coverage of wage and salary workers under all Federal and state unemployment insurance programs exceeds 95 percent. The self-employed, workers on small farms, and domestic workers with several employers in a calendar quarter are the main groups not covered by unemployment insurance.

EXTENSION OF BENEFIT DURATION UNDER FEDERAL-STATE LAWS

Extended Benefits

Before 1970 two temporary Federal programs were passed as recession measures to give unemployed workers up to 13 additional weeks of benefits. The Temporary Unemployment Compensation Act (TUC) of 1958 offered the states a choice of whether or not to pay extended benefits to workers who had exhausted regular benefits; states that chose to participate (New York was one) had to repay the cost to the Federal Government. The Temporary Extended Unemployment Compensation (TEUC) of 1961 covered all the states. This program was applied throughout the country and was federally financed by a temporary increase in the Federal unemployment tax.

The Federal Employment Security Amendments of 1970 set up a permanent program of extended benefits, financed 50 percent by the Federal Government, to be activated or triggered on when the unemployment rate exceeded specified levels. The legislation set up a national trigger and a state trigger for activating an extended benefit period. The national trigger was a 3-month average insured unemployment rate of 4.5 percent or more. The state trigger had a dual requirement: (a) a 13-week average insured unemployment rate of 4 percent or more and (b) a rate that was at least 120 percent of the average rate in the corresponding periods of the 2 preceding years. The law provided up to 13 more weeks of benefits to claimants who had exhausted regular benefits or who could not qualify for a new benefit year after their old benefit year expired. The national program was first effective in January 1972. State triggers were operative on or after October 10, 1970.

An extended benefit period begins with the third week after the week of an "on" indicator and ends with the third week after the "off" indicator, except that it has a minimum duration of 13 weeks. An extended benefit period began in New York State in January 1971. Extended benefit periods triggered off in New York and other states in 1972, despite high unemployment rates, because the 120-percent requirement was not met and the national insured unemployment rate was below 4.5 percent. Subsequent legislation allowed the states to suspend temporarily the 120-percent requirement. The Emergency Unemployment Compensation Act of 1974 permitted states to pay extended benefits until the end of 1976, fully reimbursable by the Federal Government, when the national insured unemployment rate was 4 percent (up to but not including 4.5 percent), provided that the dual requirements of the state trigger were not met. Under the Federal Unemployment Compensation Amendments of 1976 the

120-percent requirement became optional for a state as of April 1977 when its insured unemployment rate was 5 percent or more, but was mandatory when the rate was between 4 and 5 percent.

Emergency or Supplemental Benefits

Emergency benefits, which allow increased benefit duration to persons who have exhausted extended benefits, have been provided under temporary Federal legislation that has been renewed and revised periodically. The Emergency Benefits Program, first established under the Emergency Unemployment Compensation Act of 1971 and completely financed by the Federal Government, provided up to 13 weeks of additional benefits to persons who exhausted extended benefits. The "on" trigger for an emergency benefit period was 6.5 percent of the state's adjusted insured unemployment rate, provided an extended benefit period was active. An emergency benefit period had to run at least 26 weeks. Persons who had not exhausted extended benefits, as well as those who had, could draw emergency benefits if the extended benefits period was off solely because the 120-percent requirement was not met. The program was effective January 30, 1972 and was extended by subsequent legislation to March 31, 1973.

The temporary Emergency Benefits Program was renewed in January 1975 under the Emergency Unemployment Compensation Act of 1974, and was extended under successive legislation. Emergency benefits, also known as Federal supplemental benefits (FSB), were payable to a claimant initially for a maximum of 13 weeks, but duration was extended to a maximum of 26 weeks in April 1975. During 1975 an unemployed worker might receive a total of 65 weeks of benefits under the regular, extended benefit and emergency benefit programs. For 1975 the "on" and "off" triggers for an emergency benefit period were the same as for an extended benefit period. Because the national unemployment rate was 4.5 percent or over for November and December 1974 and January 1975, emergency benefits became payable on the basis of a national trigger in the week starting February 23, 1975 in all states that had agreements. In states that had an extended benefit period in operation, emergency benefits were payable as soon as the program was enacted. In New York State, the starting date was January 6, 1975.

From 1976 on, an emergency benefit period was triggered on by an individual state's insured unemployment rate of 5 percent or more. Maximum duration of emergency benefits varied in 1976 and through March 1977 depending on the state's insured unemployment rate: 26 weeks when the unemployment rate was 6 percent or higher and 13 weeks when the rate was 5 percent up to 6 percent. No emergency or Federal supplemental benefits were payable when the rate was below 5 percent. Under the Emergency Unemployment Compensation Act of 1977, duration of emergency or Federal supplemental benefits reverted to a single maximum of 13 weeks after April 1977 and the "on" trigger in a state was an insured unemployment rate of 5 percent or higher. The new law denied emergency benefits to a claimant more than 2 years after his last regular benefit year ended.

The Emergency Benefits Program ended January 31, 1978, but new claims were not allowed after October 1977.

FINANCING ADMINISTRATIVE COSTS

Tax Rates

The Federal Unemployment Tax Act allowed employers a 90-percent credit against the Federal tax for contributions they paid under their state's unemployment insurance law. The tax share received by the Federal Government was used to finance state and Federal costs of administering the program. Employers also received a credit against the Federal tax for contributions they were excused from paying under approved state experience rating systems.

Originally, employers had to have at least 3 years of experience with unemployment risk or to have paid contributions for at least 3 years to qualify for reduced rates. In 1955, changes in the Federal law permitted states to lower the period for these two requirements from 3 years to 1 year, after which new or newly covered employers could be eligible for reduced rates under experience rating. Effective in 1972, Federal law allowed states to assign reduced rates—as low as 1 percent—to new employers on a reasonable basis other than experience with unemployment.

From 1938 to 1960, the Federal unemployment tax was 3.0 percent of an employer's taxable payroll. The Federal Government received a net tax of 0.3 percent because of the 90-percent credit against the Federal tax (or 2.7 percent credit) allowed to employers for payment of their state unemployment insurance taxes. The 2.7 percent tax credit was retained in the following years even when the Federal tax was raised. In 1961, the Federal tax rose to 3.1 percent and the net Federal tax became 0.4 percent. To pay for extended benefits under the temporary Federal TEUC program of 1958-1959, an additional payroll tax of 0.4 percent for 1962 and 0.25 percent for 1963 was in effect. In states that participated in the program and did not repay Federal loans in time, tax credits to employers were to be reduced starting with the 1963 taxable year.

Effective in January 1970, the Federal tax rose from 3.1 percent to 3.2 percent and the net tax received by the Federal Government was 0.5 percent; the 0.1 percent increase was earmarked in 1970 and 1971 for a reserve fund to pay the Federal share of extended benefits. Since then one-tenth of the net Federal tax has been transferred to the Extended Unemployment Compensation Account (described under "Appropriations").

For 1973, the Federal tax was increased by .08 percent to finance payment of emergency benefits. In 1977 the Federal tax was raised from 3.2 percent to 3.4 percent. The net Federal unemployment tax, that is, excluding the tax credit, increased from 0.5 percent to 0.7 percent to build up the Loan Fund for states with depleted reserves and to meet the cost of extended and emergency benefits. The higher tax rate will continue until all advances from Federal general revenues to the Federal Extended Unemployment Compensation Account have been repaid.

Taxable Wages

When the Social Security Act was passed, the Federal unemployment tax applied to the total payroll for covered employment. Effective in 1940, the taxable wage base was reduced to the first $3,000 paid to a covered worker, and the states adopted this change. At that time, it made little practical difference because the $3,000 figure represented 98 percent of all wages in covered employment nationally. However, average annual wages in covered employment rose to $7,500 by 1970, and the $3,000 represented only half of all covered wages. In 1972, the taxable wage base was increased—for the first time—to $4,200; that is, the employer paid a tax on the first $4,200 of each employee's wages. A second increase in the taxable wage base—to $6,000—was effective in January 1978.

Appropriations

One purpose of the tax offset provision was to obtain Federal funds for administrative costs. Nothing in the original act, however, stipulated that the entire share retained by the Federal Government was to be returned to the state where the tax was paid or elsewhere. Congress each year appropriated funds for state and Federal administration, even though employers were specifically taxed for this purpose.

The Administrative Financing Act of 1954 (Reed Act) changed the situation. This law earmarked all proceeds of the Federal Unemployment Tax Act for the unemployment insurance program, although Congress still had to approve funds for administration. It provided that any excess of collections over employment security administrative expenditures would be automatically appropriated each year to the Federal Unemployment Trust Fund. These excess funds were to be placed in a Loan Fund, the amount in which would change from time to time and would be available for noninterest loans to state unemployment insurance agencies with depleted reserves. Collections in excess of this specified Loan Fund were to be returned to the states to finance benefits. Under certain circumstances, state legislatures could appropriate the money returned to the states for administering the system and for constructing urgently needed facilities.

In 1961 a new account was established: the Employment Security Administration Account. This account was to be credited with Federal unemployment insurance tax receipts and was to provide appropriations for state administrative grants. The excess above a specified ceiling in this account at the end of each fiscal year was to be transferred to the Federal Unemployment Account (Loan Fund) up to the statutory limit. Any remaining surplus was to be redistributed to the states — this happened only in 1956, 1957, and 1958.

The Employment Security Amendments Act of 1970 established still another account, the Extended Unemployment Compensation Account. This was to be credited with receipts from the previously mentioned 0.1-percent increase in the Federal unemployment tax in 1970 and 1971, and thereafter with one-tenth of the net Federal tax, up to a specified ceiling. The account would also be credited with the temporary increase (in 1973) of the Federal tax of .08 percent to finance a continuation of the temporary program for extended benefits. The 1970 law also raised the statutory ceilings for the Federal Employment Security Administration Account and the Unemployment Account. When all three accounts have reached their statutory limits and all advances from the U.S. Treasury general funds have been repaid, the excess is to be distributed to the accounts of the individual states.

The Emergency Unemployment Compensation Act of 1971 provided that emergency benefits be financed from the Extended Unemployment Compensation Account and that the U.S. Treasury make repayable advances to that account if necessary. The act extended to 1983 the provision for distributing excess funds to the states.

Emergency benefits, also known as Federal supplemental benefits, were renewed under the Emergency Unemployment Compensation Act of 1974 and were financed by the Federal Government through repayable advances from Federal general revenues to the Extended Unemployment Compensation Account. After March 1977 emergency benefits were to be financed entirely from Federal general revenues, under the Emergency Unemployment Compensation Act of 1977. Special Unemployment Assistance (SUA) under the Emergency Jobs and Unemployment Assistance Act of 1974 was financed entirely from Federal general revenues from the start.

Loans to States

Under the Administrative Financing Act of 1954 (Reed Act) funds placed in a Loan Fund would be available for noninterest loans to state unemployment insurance agencies with depleted reserves. States had 4 years within which to repay these loans before incurring a reduction in allowable tax credits, which, in effect, would result in a tax increase to employers in the states involved.

After September 13, 1960, a Loan Fund advance to a state was limited to the amount of the current or following month's benefit payments. Provision was made for speeding up the states' repayment of advances: the time limit was 2 years, after which an automatic reduction in tax credits to employers in the states involved would take effect.

States received two extensions in time to repay loans for unemployment insurance costs from the Federal Unemployment Trust Fund before the automatic tax-increase provision for nonpayment of loans would take effect. The extensions are granted under the Emergency Compensation and Special Unemployment Assistance Act of 1975 and the Emergency Unemployment Compensation Act of 1977, provided that the states take appropriate action to restore the financial soundness of their unemployment accounts.

III. UNEMPLOYMENT INSURANCE DEVELOPMENTS IN NEW YORK STATE

BACKGROUND

In the 14 years after the first unemployment insurance bill was introduced in the New York State Legislature, in 1921, different members of the Legislature introduced 77 bills for some form of unemployment insurance.

The serious Depression which started in 1929 increased demand for an unemployment insurance system. Governor Franklin D. Roosevelt, at a Governors' Conference in June 1930 in Salt Lake City, stated:

> Unemployment insurance we shall come to in this country just as certainly as we have come to workmen's compensation for industrial injury, just as certainly as we are in the midst of a national way of insuring against old age want.

In January 1931, Lieutenant Governor Herbert Lehman of New York met in Albany with representatives of Massachusetts, Rhode Island, Connecticut, Pennsylvania, and Ohio as a Commission on Unemployment Insurance. This commission recommended compulsory statewide systems of unemployment reserves.

In April 1931, a Joint Legislative Committee on Unemployment Insurance was created in New York "to investigate the cause of unemployment in its every aspect." The committee's final report made in February 1933 stated:

> No evidence has been presented to us to change our belief in the soundness of the principle that industry should, in times of business activity and prosperity, set up reasonable reserves against the involuntary unemployment of its workers in less prosperous times and that the establishment of such reserves should be under State supervision and should be made compulsory upon employers by the State. The necessity of establishing a statewide system of employment exchanges to function in connection with a compulsory system of unemployment reserves is recognized by all students of the subject, as is the necessity for the collection of more adequate statistics on employment, unemployment and industrial trends.

Acting upon the recommendations, and at the request of the Governor, the Industrial Commissioner in 1933 and 1934 appointed committees of employers, employees, and technical experts to draft legislation.

THE 1935 NEW YORK LAW

The New York State Unemployment Insurance Law was enacted April 25, 1935 and the U.S. Supreme Court upheld its constitutionality in November 1936. The law's declaration of public policy stated:

> ...The public good and the well-being of the wage earners of the State require the enactment of this measure for the compulsory setting aside of financial reserves for the benefit of persons unemployed through no fault of their own.

The law provided for a statewide pooled fund of contributions from employers of four or more workers in the types of employment covered. It required that a study be made of merit rating and stated as "public policy that no rate of contributions on payrolls required from any individual employer shall be less than 1 percent."

Benefits became payable January 1, 1938. To collect benefits, a worker must have had at least 90 days of covered employment in the year before, or at least 130 days in the 2 years before filing his claim.

Benefits were payable only for a full 7-day period of unemployment, but the Industrial Commissioner was to make a study of partial unemployment and transmit his findings to the Legislature.

The law provided for weekly payments equal to 50 percent of the worker's "full-time weekly wages," the minimum to be $5 and the maximum $15 a week. Full-time weekly wages were defined as the current rates for the customary number of hours per week in the worker's usual employment, or in the job most similar to that in which he had had the longest employment.

A beneficiary could receive 1 week's benefits for each 15 days' employment in the 52 weeks before payments started, but he could not receive more in any consecutive 52 weeks than 16 times the weekly benefit—that is, 16 weeks of payments.

No benefits were payable until after a 3-week waiting period, but ordinarily no more than 5 such weeks were required in any calendar year. The waiting period was extended to 10 weeks if the worker had lost his job through his misconduct or because of an industrial controversy where he worked. A worker who refused to accept employment for which his training and experience reasonably fitted him was disqualified for an indefinite period.

One purpose of the Unemployment Insurance Law was "to promote the regularization of employment in enterprises, localities, and industries of the State." The Industrial Commissioner was to "take such steps as are within his means for the reduction and prevention of unemployment."

UNEMPLOYMENT INSURANCE COVERAGE

The Thirties

The size-of-firm coverage under the original New York law — all private employers of four or more workers for at least 13 weeks in a year — was broader than in the Federal law. The law exempted nonprofit institutions, the State of New York, and municipal and other government subdivisions, but these employers could elect coverage for their employees. The law specifically excluded employment as a farm laborer and employment of a spouse or minor child; employers could not elect coverage for this employment.

The law covered all manual workers, and nonmanual workers at a rate of no more than $50 a week or $2,500 a year. It was felt that unemployment insurance coverage should be limited to blue-collar workers and to low-paid white-collar workers because these two groups ran the greatest risk of unemployment and were least able to save money to use during involuntary unemployment. The wage limit for coverage of white-collar workers was raised twice—to $2,600 in 1936 and to $3,000 in 1937. In 1938 manual and nonmanual workers were covered regardless of the amount they earned annually.

The new Social Security Act made all employers of eight or more workers in each of 20 weeks in a year subject to the Federal unemployment tax — it made no distinction as to annual earnings or manual and nonmanual work. The influence of the Federal law and the difficulties employers had in distinguishing between manual and nonmanual employees led New York, in January 1938, to drop this restriction. All employees of subject employers were covered, whatever their annual earnings, but the payroll tax was limited to the first $3,000 of a worker's earnings. Despite the Federal limitation to employers of eight or more workers and its exclusion of domestic service in a private home, the New York law maintained its original coverage of employers of four or more workers, including domestic workers.

During the remainder of the 1930's, amendments to the New York law tended to restrict coverage. Changes in 1939 excluded employment as a golf caddy and part-time employment of a minor under 21 who attended a regular daytime school. With enactment of the Federal Railroad Unemployment Insurance Law, effective in July 1939, railroad workers were also excluded.

The Forties

State amendments during the 1940's redefined existing exclusions from coverage, extended coverage to some groups, and allowed certain exempt local governmental institutions that elected coverage to reimburse the unemployment insurance fund for benefits paid rather than pay taxes.

New York State took advantage of Congressional amendment of the Federal Unemployment Tax Act to extend coverage in 1940 to such Federal agencies as national banking associations. In 1941, it extended coverage to employees of nonprofit institutions who were temporarily and solely employed for constructing, substantially remodeling, or demolishing buildings. Beginning in 1947, coverage was extended to employees of the State of New York if they were in the classified service and were employed continuously for one year. Rather than pay taxes on wages, the State had to reimburse the State Fund for unemployment benefits paid to its former employees. In 1948, municipal corporations and other local government subdivisions that elected coverage (a small number) were also required to reimburse the Fund.

Maritime Employment. The New York law made no reference to maritime employment. The general opinion was that such employment was outside state jurisdiction and that admiralty jurisdiction prevailed. However, the New York State Court of Appeals ruled in October 1942 that the State law did cover these workers; the United States Supreme Court in May 1943 upheld the constitutionality of covering maritime workers by State law.

World War II Veterans. To help ex-servicemen in readjusting to civilian life, Congress in September 1944 enacted the Servicemen's Readjustment Act. Its Title V provided for benefits to veterans for involuntary unemployment after their discharge, and for allowances to self-employed veterans whose net income was less than $100 in any month. The state Employment Security agencies administered the provision as agents for the Federal Government, being reimbursed by the Federal Government for benefits paid. The program ended in 1950.

In April 1944, before the Federal Servicemen's Readjustment Act was enacted, New York had made special provision for benefits to ex-servicemen who had not accumulated enough wage credits for regular benefits. This special State provision, to be financed from general State funds, became inoperative with the passage of the Federal law and was repealed in April 1945.

The Fifties

The most important changes in the State unemployment insurance system during the 1950's were the extension of coverage to employers of three or more workers (effective January 1956) and to employers of two or more workers (effective January 1957). Private households with fewer than four employees, however, were still excluded. These extensions came after the 1954 extension of Federal coverage to employers of four or more workers (effective January 1956) — New York continued to cover smaller firms than did the Federal regulations.

Other amendments to the State law extended coverage to small groups of workers:

- School custodial employees in cities of 500,000 or more (July 1950).
- Employees of nonprofit institutions whose primary activity was to produce plays or musicals (March 1952), and concerts (July 1954) for the entertainment of the public.
- Employees of the State Division of Military and Naval Affairs (April 1955).
- All State employees in the classified service (July 1955).
- Noncovered employers who operated a building could elect to cover only the building maintenance employees (April 1951).

The Sixties

The most important change in the 1960's was the extension of coverage, effective January 1960, to employers of one or more workers with payrolls of $300 or more in any calendar quarter. Again, domestic service in private homes was covered only in households which employed four or more domestic workers on one day. Effective January 1966, however, the State extended coverage of domestic workers to all household employers whose payroll amounted to $500 or more in a calendar quarter.

Another amendment, designed to encourage municipal corporations and other governmental units to elect coverage, allowed them to pay the unemployment insurance tax or reimburse the Fund for benefits charged against them (January 1963). In addition, local governmental units and nonprofit organizations that elected coverage could exclude certain types of employees, such as administrative and professional personnel, volunteer workers, teachers, clergymen, and members of religious orders (July 1963).

In July 1965, coverage was extended to full-time, year-round employees of the State Legislature who work in Albany, even though these jobs are in the unclassified service. Elected officials of the Legislature and employees of joint legislative committees and of temporary commissions are still excluded.

In 1965, New York passed standby legislation (to go into effect only when it was certified for conformity with Federal requirements) mandating coverage of most nonprofit organizations. This legislation, which became operative in 1971, is described in the following section ("The Seventies").

Two other amendments of the 1960's extended agricultural coverage: in 1967, mandatory coverage for agricultural processing work for an employer who was not a farm operator; and in 1969, voluntary coverage for agricultural work on a farm if the employer so chose.

In 1969, coverage was extended to daytime students in colleges and trade and specialized schools (other than high schools) who worked outside of school hours or during vacations. Effective July 1963, the State law excluded the services of children under 14 - this applied mainly to children employed in television and theatrical performances.

The Seventies

In the 1970's coverage was expanded substantially by the Federal Employment Security Amendments of 1970 and Unemployment Compensation Amendments of 1976. Two large groups of workers brought in under mandatory coverage were those in nonprofit organizations in 1971, and those in local governments in 1978 (starting in 1975 under a temporary Federal program).

In New York State, nonprofit organizations with quarterly payrolls of $1,000 or more were covered on a compulsory basis in January 1971 after State standby legislation of 1965 was approved by the U.S. Secretary of Labor. These organizations employed over 400,000 workers. Churches were covered except that workers engaged in religious functions were excluded. New York State covered nonprofit primary and secondary schools as well as State and private colleges or universities (the Federal act covered only institutions of higher education). Other excluded occupations in nonprofit organizations were doctors, professional scientific workers, teachers, other professional workers in schools, persons working for and receiving services in rehabilitation facilities and students employed by their schools. Municipal corporations and other governmental subdivisions, which were covered on an elective basis only, were given the additional option in 1971 of electing coverage limited to municipal hospitals and schools, with the further option of excluding teachers.

Additional changes in the State law became effective on January 1, 1972 to bring State coverage into full conformity with the Federal amendments regarding nonprofit organizations. Coverage was extended to nonprofit organizations with four or more employees in each of 20 weeks and to some previously excluded occupations in nonprofit organizations, e.g., doctors, professional scientific workers, college teachers and other professional workers in colleges or universities. Teachers in nonprofit elementary and high schools were covered only if their employers elected coverage for them. Coverage was also extended to unclassified workers in State hospitals and colleges.

In line with the Federal amendments of 1970, New York State also extended coverage, effective in 1972, to: certain outside salesmen and commission drivers; some types of agricultural processing workers; United States citizens working outside the country for American firms whose principal place of business is in New York State, and citizens working in other states or in the Virgin Islands or Canada whose employment is directed from New York State and who are not covered under the unemployment insurance law of the place where they worked.

Two small changes in coverage were enacted in 1972. One extended coverage to principal stockholders of corporations not subject to the Federal unemployment tax. The other excluded from coverage employment of students under 22 years of age under a full-time work-study program.

Effective January 1975, local government and other workers were covered by a temporary Federal program that extended coverage to persons who were not covered by state laws but who met the individual state's minimum earnings and eligibility requirements. This program, called Special Unemployment Assistance, was effective when the total unemployment rate for 3 months was 6 percent nationally or 6.5 percent in certain specified areas. The national unemployment rate has exceeded 6 percent since the program was activated. Claims were first accepted January 6, 1975, retroactive to unemployment beginning December 23, 1974.

In line with Federal legislation, the State law was amended, effective in 1978, to cover on a mandatory basis workers in local government, including schools, and workers on large farms and in a few previously excluded occupations. This brings into coverage about 900,000 additional workers in New York State. Prior to the Federal amendments New York State's law provided for voluntary coverage by local governments and farm operators, but few such employers elected coverage. Farm operators subject to the new law are those with 10 or more workers in each of 20 weeks or who paid cash wages of $20,000 or more in a calendar quarter.

Nonprofit elementary and high schools are also covered under the new Federal legislation. These organizations were covered in New York State as of January 1971, except for teachers and other professional school workers, who were allowed coverage in 1972 if their employers so elected. These occupations are no longer exceptions, but like college teachers and other professional workers in college, these workers are ineligible for benefits between school terms if they have reasonable assurance of continuing employment.

Federal legislation covers State workers, with some exceptions. Most State workers have been covered in New York State since 1947. Domestic workers in large households, covered by Federal legislation, have been covered from the start of New York State's unemployment insurance system. The current State coverage of households with a quarterly payroll for domestic workers of $500 or more in a calendar quarter is broader than the Federal provision, which covers household employers with a quarterly payroll of $1,000 or more.

Main groups still excluded from unemployment insurance coverage are the self-employed, workers on small farms and domestic workers with several employers in a calendar quarter.

WEEKLY BENEFIT RATE

1935 to 1948

The original New York State Unemployment Insurance Law of 1935 based the benefit schedule on half of a worker's full-time weekly wages, with a minimum payment of $5 and a maximum of $15. This benefit schedule was not put into effect before the law was amended in 1937 to redefine the weekly wage on which to base benefits and to raise the minimum payment to $7. Benefits for all claimants remained at 50 percent of the newly defined weekly wage, in a range of $7 to $15 — the formula when benefits became payable on January 1, 1938.

To simplify administration, another amendment in July 1939 based the benefit rate on highest quarterly, rather than weekly, wages. The new formula, designed for a benefit rate half of full-time weekly wages, was set forth in a table in the law showing the dollar amounts of benefits corresponding to earnings in the highest quarter of the base year.

Four changes from 1942 through 1948 raised the minimum or maximum rate: the maximum to $18 in 1942, to $21 in 1945, to $26 in 1948; the minimum to $10 in 1943.

The 1951 Amendments

The Hughes-Brees Act amendments (approved April 9, 1951 and effective June 4, 1951) made several important revisions. Based on recommendations of the Joint Legislative Committee on Unemployment Insurance, the three main changes were these:

- The method of measuring prior weekly earnings. In place of the table relating benefit rates to highest quarterly earnings, a new schedule related benefit rate to average weekly wages, which were defined as base-year earnings divided by the number of weeks of base-year employment. Weeks with earnings of less than $15 were not counted unless their exclusion would leave a worker with fewer than the required 20 weeks of base-period employment.

- A sliding scale of benefits. In place of the concept that benefits should equal 50 percent of prior full-time weekly wages, a philosophy that had prevailed since 1935, a sliding scale of benefits was introduced. The scale ranged from two-thirds of average weekly wages for the lowest paid workers to 52 percent for beneficiaries eligible

for the rate just below the maximum. This graduated scale followed the principle that unemployment benefits should meet the ordinary nondeferrable living expenses of the beneficiary and his family, expenses which represent a higher proportion of earnings for low-wage earners than for high-wage earners.

- An increase in the maximum weekly benefit. This was increased from $26 to $30 by the addition of four rates on the new benefit scale. The $30 figure was chosen as roughly half the average weekly wages of production workers in manufacturing industries ($59.55 in 1950).

Changes in Maximum and Minimum Rates

From 1951 to 1971, the benefit rate maximum was raised 6 times: to $36 in 1955, to $45 in 1957, to $50 in 1960, to $55 in 1965, to $65 in 1968, and to $75 in 1970. The $10 minimum remained from 1943 to 1968, when it went to $20.

Three changes in the scale of weekly benefit amounts were enacted by the State Legislature after 1970. The $75 weekly maximum, in effect since September 1970, was raised to $95, effective July 1974. The $95 maximum was payable to claimants with base-period average weekly wages of $189 or more. The scale of benefit rates was recently revised upward, to a maximum of $115 beginning September 5, 1977 and to $125 in September 1978. The $115 maximum is based on average weekly earnings of $229 or more; the $125 weekly maximum will be payable to unemployed workers with average weekly wages of $249 or more. The minimum-earnings requirement was raised from an average weekly wage of $30 to $40, as of September 5, 1977, and the minimum weekly benefit was increased from $20 to $25.

Part-week Benefits

New York State did not provide benefits for part-week unemployment until November 1942. At that time, the Day Base Plan was enacted which credited a claimant for full days of unemployment, and paid benefits only after he had accumulated the equivalent of a full week of unemployment; a day in which some work was performed, no matter how little, was not credited. Since 1951, benefits have been paid weekly, on a pro-rated basis, for part-week unemployment. New York's system of partial benefit payments—the Day Base Plan— is unique in that benefits are based primarily on lost days of work rather than on lost earnings in a week.

Under the Day Base Plan, the first 3 days of unemployment in a statutory week (Monday through Sunday) are "qualifying days," for which no benefits are payable. Any additional days of unemployment within the week (including Saturday and Sunday) are "effective days," for which benefits are payable. Benefits are one-fourth of the claimant's weekly benefit for each

effective day. Thus a claimant with 2 effective days of unemployment receives half of his weekly benefit amount.

A claimant who is unemployed part of the week receives no benefits if his earnings for the statutory week exceed a specified amount. In 1942, when the maximum weekly benefit was $18, the allowable earnings limit was $24; in 1951, when the maximum weekly benefit was $26, the allowable earnings limit was set at $30. Changes thereafter set the allowable earnings limit at the same amount as the maximum weekly benefit—from $36 in 1955 to $115 as of September 5, 1977 and to $125 in September 1978.

DURATION OF BENEFITS

The New York State Unemployment Insurance Law was designed only as partial compensation for loss of income during short-term or temporary unemployment and as a first line of defense against recession. It was assumed that Federal emergency programs would deal with long-term unemployment resulting from severe or prolonged recessions. In determining the maximum duration for benefits, a primary consideration was the time that the short-term unemployed required to return to work.

Waiting Period

For the newly unemployed, the law has a waiting period during which benefits are not paid. This gives the State agency time to process new claims and avoids paying benefits to workers unemployed for very short periods. The waiting period was originally 3 weeks, or a maximum of 5 weeks in a calendar year if there was more than one spell of unemployment. In 1938, the waiting period was changed to 3 consecutive weeks in the first spell of unemployment, with a maximum of 5 weeks in the benefit year (the 52-week period following the filing of an initial claim). In 1939, it was changed to 3 weeks, not necessarily consecutive, in the benefit year; in 1942, it was reduced to 2 weeks. Since 1945, the waiting period has been 1 week or 4 effective days in the benefit year. For example, if a person were credited with 1 effective day in each of 4 weeks, his waiting period would extend over the entire 4 weeks. The first 3 days of unemployment (including Saturday and Sunday) in each week are disregarded in counting effective days. In other words a claimant must be unemployed at least 4 days (counting Saturday and Sunday) in a week to receive credit for an effective day.

Maximum Duration to 1970

Except in its first year, the New York program has had a uniform maximum duration of benefits for all claimants. In 1938, this varied from 3 to 16 weeks, depending upon the amount of past earnings, but in July 1939, the maximum period was changed to 13 weeks for all beneficiaries. This was increased to 20 weeks in 1942 and to 26 weeks in 1945. Thereafter, the

26-week maximum remained except for temporary programs that extended benefit duration during periods of recession and readjustment.

Before 1970 two temporary Federal programs provided up to 13 additional weeks of benefits to unemployed workers who exhausted regular benefits. The Federal Temporary Unemployment Compensation Act of 1958 (TUC) was effective from June 23, 1958 to April 10, 1959 for all claimants, and was extended to July 5, 1959 to cover some veterans. As a tapering-off device, New York State enacted a temporary measure from April 1959 to July 1959 to provide benefits for persons who had received one or more TUC payments.

The Federal Temporary Extended Unemployment Compensation Act of 1961 (TEUC), effective from April 1961 through June 1962, provided 13 additional weeks of benefits to exhaustees.

This program voided a statute which New York had on the books from February 1961 to April 1962; this would have provided extended benefits when, during 13 consecutive weeks, the number of regular benefit exhaustees totaled more than 1 percent of the insured labor force.

Duration of Benefits in the Seventies

In most years of the 1970's, maximum benefit duration has been extended beyond the basic 26 weeks under programs activated by high unemployment rates — to 39 weeks, then to 52 weeks, to 65 weeks, and back to 52 weeks.

Extended benefits. The Extended Benefits Program, financed 50 percent by the Federal Government, was put permanently on the books by the Federal Employment Security Amendments of 1970, to be activated or triggered "on" by high Federal or state insured unemployment rates (see discussion under Federal legislation). Corresponding New York State legislation was passed in early 1971. The program, which provided a maximum of 13 weeks of extended benefits to persons who exhausted regular benefits or who did not requalify for a new benefit year, raised maximum benefit duration in New York State to 39 weeks. An extended benefits period was activated in New York as of January 11, 1971 and ended on July 23, 1972. Despite high unemployment rates, the program was deactivated because the 120-percent requirement was not met, that is, the 13-week average insured unemployment average rate in the State was not at least 120 percent of the average in the corresponding periods of the preceding 2 years.

Federal legislation in late 1972 permitted states to suspend temporarily the 120-percent requirement. New York enacted conforming legislation in June 1973. A second extended benefit period started on February 18, 1974 and has remained in effect to the present. As of April 1977 the 120-percent requirement became optional in the State when the insured unemployment rate was 5 percent or more, but was mandatory when the rate was between 4 and 5 percent.

Emergency benefits. Emergency benefits, 100 percent financed by the Federal Government, have been provided under temporary Federal legislation that has been renewed and revised periodically (see discussion under Federal legislation). The Emergency Benefits Program was in effect in New York State for 6 months in 1972—January 31–July 30. It provided a maximum of 13 weeks of emergency benefits, in addition to extended benefits, to raise the total maximum benefit duration in New York to 52 weeks.

Emergency benefits, also known as Federal supplemental benefits (FSB), were renewed in New York starting January 6, 1975, under Federal legislation which provided a maximum of 13 weeks of payments. Duration was extended to a maximum of 26 weeks in April 1975. In 1975, 1976 and through April 24, 1977, unemployed workers in New York State were able to receive a maximum of 65 weeks of benefits from the time they first registered under the regular unemployment insurance system — the basic 26-week maximum, 13 weeks of extended benefits, and 26 weeks of emergency benefits.

Duration of emergency benefits was lowered after April 1977 to a maximum of 13 weeks. Maximum benefit duration under all programs from that date was 52 weeks until the expiration date for all emergency benefits, January 31, 1978. The 1977 Federal legislation also provided that emergency benefits could not be paid to an unemployed worker more than 2 years after the end of his last regular benefit year.

ENTITLEMENT PROVISIONS

The Early Years

The original New York law required claimants to have 90 days of covered work in the 12 months, or 130 days in the 24 months, preceding their filing for benefits. While this provision never became effective, it does show that at the beginning New York considered time worked the proper test of attachment to the labor force.

This principle was replaced in January 1937 by an earnings concept because it was considered administratively infeasible to require employers to provide data on time worked for all covered workers. The new requirements for eligibility were that base-year earnings had to equal 18 times the weekly benefit rate (the equivalent of 9 weeks of full-time work) and annual earnings be at least $126.

The base year was defined as the first 4 of the 5 calendar quarters preceding filing of a new claim. The lag of 1 quarter between the end of the base year and the beginning of the benefit year was allowed to give the administrating agency time to process quarterly wage reports for the 3 million workers then covered by the law.

In April 1938, 3 months after benefit payments began, the law was amended again to simplify administration. The base year became the calendar year preceding the benefit year, which was a fixed year beginning on April 1 for all claimants. This gave the agency more time to process employers' wage reports. But if calendar year earnings did not entitle claimants to benefits, their base period could be the first 4 out of the 5 calendar quarters before their filing, as under the previous definition. Here difficulties arose because benefit rights had to be redetermined when new calendar quarters of wage records became available; this alternative was dropped in 1939.

In that year, the qualifying earnings requirement was increased to 25 times the benefit rate—about equal to 13 weeks of full-time work. Minimum base-year earnings of $175 were required, with a minimum of $43 in the high quarter. A new method of basing the weekly benefit rate on high quarter earnings avoided the previous complicated calculations. Work in more than 1 calendar quarter was required to assure a claimant's firm attachment to the labor market.

An increase in the minimum benefit from $7 to $10, in 1943, had the effect of raising the minimum earnings requirement to $250 (25 times the weekly benefit). While this resulted in paying more substantial minimum benefits, persons whose base-year earnings were between $175 and $250 could no longer qualify.

The qualifying earnings requirement was raised again in June 1945 to 30 times the weekly benefit amount (equivalent to 15 weeks of full-time work), with a minimum of $300 in the base year and $100 in the highest quarter. This change made it possible to increase the maximum duration of benefits to 26 weeks for all eligible unemployed workers without violating insurance principles. An individual who earned $300 in his base year, for instance, could qualify for benefits of $260 ($10 a week for 26 weeks); one who earned $630, or 30 times the maximum benefit rate of $21, could receive $546 in benefits. Benefits could be as high as 87 percent of base-year wages.

The Hughes-Brees Act of 1951

This act, approved April 9, 1951, made fundamental changes in the unemployment insurance law. The test of attachment to the labor force reverted to the original concept of time worked, by requiring at least 20 weeks of work at average wages of $15 a week—a total of $300 in the base year or base period. This period was defined as the 52 weeks preceding the filing of a valid original claim (the first claim entitling a person to benefits); the benefit year was defined as the 52 weeks starting with the first Monday after the filing. Thus the lag period and the benefit year and base-year concepts were geared to the needs of the unemployed rather than to administrative needs.

Also, the change in the benefit formula affected maximum potential benefits. A worker who qualified for the minimum benefit of $10 a week on the basis of the minimum earnings of $300 could receive benefits of $260 ($10 for 26 weeks), 87 percent of base-year earnings; one who qualified for the $30 maximum rate on the basis of earnings of $1,160 could receive benefits of $780 ($30 for 26 weeks), 67 percent of base-year earnings.

Changes After 1951

Three major changes have been made in the entitlement requirement since the law described above. One was an alternate provision, effective July 1958, permitting the use of a 2-year period for claimants who could not qualify on the basis of 1 year's covered employment and earnings. The former measure of attachment to the labor market had been criticized for unduly penalizing workers whose recent employment experience had been limited because of illness, work in noncovered employment or a recession, but whose past employment record had been otherwise good. The other changes were increases in the minimum-earnings requirement.

Under the 1958 amendment, a claimant could be entitled to benefits if he had only 15 weeks of covered work in his base period, instead of 20, provided that he had at least 40 weeks of work in the 2 years (104 weeks) preceding his first claim. The minimum-earnings requirement was an average weekly wage of $15 in the 40 weeks.

Average weekly earnings had increased substantially over the years and the minimum-earnings requirement was raised to an average weekly wage of $30 as of August 1968. The minimum-earnings requirement was raised to an average weekly wage of $40 in 20 weeks, as of September 5, 1977 — a total of $800 in 20 weeks. The alternate provision, which allowed entitlement on basis of employment in the preceding 2 years, required minimum earnings of $1,600 in 40 weeks.

ELIGIBILITY AND INELIGIBILITY PROVISIONS

Besides amount of past employment, the New York law specifies other conditions of eligibility for receiving benefits. Claimants may be denied benefits when they first file a claim or during their benefit year. Disqualification suspends benefits but does not reduce the potential maximum claimants may receive if they meet requirements after the disqualification period ends. (The exceptions — cases of criminal misconduct or willful misstatement — are described later.)

Availability and Total Unemployment

The original law stated that "no employee shall be entitled to any benefits unless the employee (a) is suffering total unemployment as defined in this article; and (b) has ... registered as totally unemployed and reported for work or otherwise given notice of the continuance of his unemployment..."

Total unemployment was defined as:

> ... the total lack of any employment... together with the total lack of all wages, both of which are caused by the inability of an employee who is capable of and available for employment to obtain any employment in his usual employment or in any other employment for which he is reasonably fitted by training and experience...

In November 1942 total unemployment was redefined as the lack of any employment on any day. Since then benefits have been paid for part-week unemployment.

Although the language of the law has changed, the concept of eligibility has remained. A claimant must:

- Be totally unemployed.
- Be capable of work.
- Be willing and able to work in his usual employment or in any other for which he is reasonably fitted by training and experience.
- Register as totally unemployed.
- Report regularly to an unemployment insurance office.

Since April 1960 persons participating in an approved vocational training course are not required to meet all of these conditions.

Disqualifications in the 1935 Law

Representatives of employers refused to cooperate in drafting and introducing the 1935 New York State Unemployment Insurance Law. Because it was drafted by representatives of organized labor and of the public, it differed in some ways from other state laws. There was no disqualification for voluntary quit. A claimant could not receive benefits for an extended waiting period of 10 weeks (7 weeks beyond the usual 3) if he lost his job because of misconduct or an industrial controversy in his place of work, but the suspension was lifted then.

A claimant who refused an offer of employment was denied benefits. Although not explicitly stated in the law, this disqualification could be lifted only by subsequent reemployment. With the job scarcity of 1935, job refusal was "punished" more drastically than discharge for misconduct. However, this disqualification for refusal did not apply when:

- The wages, hours, or conditions offered were substantially less favorable than those for similar work in the locality.
- The establishment was involved in an industrial controversy.
- Acceptance would require the employee to join a company union or would interfere with his membership in any labor organization.
- The job was unreasonably far from the employee's home, or travel expenses were considerably greater than on his previous job.

The first three circumstances were required by the Federal legislation. All four remain the same today.

Changes in Job Refusal Provision

The original statute disqualified a person for refusing employment for which he was reasonably fitted by training and experience — a disqualification lifted only by reemployment.

In 1941, a reference to "good cause" was added. A person was not disqualified for refusing a job offer for good cause — e.g., for relevant health reasons, although he could not receive benefits if circumstances showed that he had withdrawn from the labor market (was not genuinely seeking work).

In 1958, the period of disqualification was fixed, at 6 weeks from the day of job refusal, in addition to the waiting period. This period was the same as that for voluntary separation and misconduct. Disqualification could not be terminated by intervening employment, and references to "good cause" and withdrawal from the labor market were dropped.

In 1960, a reemployment requirement was substituted for the fixed disqualification period for job refusal, voluntary quit, or misconduct. This change, still in effect, required earnings of at least $200 or at least 3 days of work in each of 4 weeks after the disqualifying act. Then a 1-week waiting period was required before benefits were payable.

Industrial Controversy Provision

Since the inauguration of unemployment insurance, New York's industrial controversy provision has suspended benefits for a specified period if unemployment is due to a strike, lockout, or other industrial controversy in the establishment in which the person is employed.

This reflects a hands-off policy. Once the fact of an industrial controversy has been established, the State does not examine the issues or the merits; it does not determine who is "participating in," "financing," or "interested in" the dispute or who belongs to the same "grade or class of workers" involved; it does not determine whether the dispute is a "lockout" or a "strike," whether it is legal or illegal.

The courts have interpreted "establishment" as the physical premises on which the dispute is in active progress, not as the corporate organization. Therefore, persons who are not involved in the dispute may be denied benefits because they work in the same premises, while workers who stand to profit by the dispute may not have benefits suspended, because they work somewhere else.

Originally, the suspension period was 10 weeks, concurrent with a 3-week waiting period. Since September 1941, the suspension period has been 7 weeks or until the end of the dispute, if earlier, in addition to the waiting period. The waiting period was reduced to 2 weeks in 1942, and to 1 week (4 effective days) in 1945. Intervening employment does not terminate the suspension, and under a 1958 amendment, the suspension applies for the 7 weeks even if the claimant had had other employment before filing for benefits.

Voluntary Quit Provision

The first disqualification for voluntary separation from employment, enacted in 1941, specified that an employee who left his job without good cause could not receive benefits until 6 weeks after filing a claim. A voluntary quit found to be for good cause did not disqualify. If the quit indicated withdrawal from the labor market, benefits were not payable until 6 weeks (plus the waiting period) after a bona fide return to the labor market. In 1958, the disqualification period for voluntary quit without good cause was changed to 6 weeks (plus the waiting period) from the day after the quit instead of the day of filing a claim. After these references to withdrawal from the labor market and bona fide return were dropped in 1958, such cases were decided on the basis of the person's availability.

A 1960 amendment replaced the fixed time period for lifting disqualification with a reemployment requirement. This required earnings of at least $200 or at least 3 days of work in each of 4 weeks after the disqualifying act—the same requirement for lifting a disqualification for job refusal or misconduct. The amendment also specified two grounds for automatic disqualification: quitting to marry or quitting to move with a spouse to another locality.

Misconduct

Originally, misconduct in connection with employment brought denial of benefits for an extended waiting period of 10 weeks. In 1941, the period was changed to 7 weeks from the day after loss of employment, plus the waiting period, not to be served concurrently. In 1958, the period was reduced to 6 weeks, plus the 1-week waiting period. In 1960 the reemployment requirement was substituted for the fixed time period.

In 1960, for the first time, the law added a disqualification for criminal misconduct connected with employment. A claimant who admits to or is convicted of a felony connected with his job is denied benefits for 12 months after losing the job. After this period, a claimant must meet all the conditions for filing a valid original claim.

Willful Misstatement

The original law stated that a willful misstatement to obtain benefits was a misdemeanor, but specified no penalty and made no reference to disqualification. In 1937, a 10-week extended waiting period was imposed and in 1940 the law specified a penalty for the misdemeanor—a fine of up to $500 or imprisonment up to 1 year, or both.

A 1941 amendment removed the 10-week waiting period, and, in addition to the penalty, reduced total potential benefits and required that the employee would forfeit 5 to 13 weeks of benefits.

The duration of the forfeiture time was changed to 5 to 20 weeks in 1942 and to 1 to 20 weeks in 1968. A penalized claimant could be disqualified if his misstatement also concerned a circumstance subject to disqualification.

Disqualifying Income

A 1958 provision denied benefits for the period in which a worker received vacation pay, even when the plant was shut down, if he was fully employed in the week before and the week after the vacation shutdown. This condition was dropped in 1963, and benefits were denied for any day during a paid vacation period or for a paid holiday.

Another 1963 amendment reduced benefit payments to claimants on a retirement pension if the employer had financed 50 percent or more of the pension and would be charged for the benefits. Depending on whether the employer financed all or most of the pension costs, the benefit is reduced by the amount of the weekly pension payment or by half this amount. This can result in a claimant's getting no benefits. When State employees came under unemployment insurance coverage in 1947, retirees were barred from all benefits based on their State employment.

Changes in the Seventies

The provision that held State retirees ineligible for unemployment benefits based on State service was deleted, effective January 1972. State retirees are now subject to the pension deduction on the same basis as other workers. A Federal provision, first effective in 1980, will reduce unemployment benefits of all retirees by the amount of all retirement payments received, including Social Security old-age benefits.

Federal and State amendments in the 1970's that extended coverage to educational institutions denied benefits based upon such employment to teachers and other professional school personnel between school terms or academic years if they had a contract or (subsequently added) reasonable assurance of employment in both periods. Teachers and other professional personnel in colleges were first covered by New York State's Unemployment Insurance Law in 1972 and those in elementary and high school were covered on a mandatory basis in 1978.

The denial of benefits was extended, effective January 1, 1978, to nonprofessional workers in elementary and high schools between school terms and during holidays and recesses if they had a contract for continuing employment. Other amendments to take effect at that time denied benefits to professional athletes between successive sports seasons if they had reasonable assurance of continued employment, and to illegal aliens.

TAXING PROVISIONS

New York State finances benefit payments by taxing employer payrolls. From the beginning two questions on financing the system have been paramount:

- How large a reserve must be maintained against the contingency of severe unemployment?

- How should the cost of unemployment benefits be distributed among employers?

Over the history of the system, New York has used three approaches to distributing of costs among employers: a uniform tax, from 1936 to 1945; a modified plan of experience rating, from 1945 to 1951; and reduced tax rates based on experience rating, from 1951 to the present.

The First Decade

In the first decade of operation, all employers were taxed at the same rate: 1 percent in 1936, 2 percent in 1937, 3 percent in 1938, and 2.7 percent beginning in 1940.

The original statute mandated the New York State Unemployment Insurance Advisory Council to study the feasibility of merit rating or

experience rating — assigning different tax rates to employers on the basis of their experience with unemployment. "In the event of adoption of experience rating," it stated, "no employer's tax rate should fall below 1 percent" — a tacit assumption that experience rating was proper and would eventually be incorporated.

There appeared to be a similar assumption on the Federal level. The Federal Social Security Act's offset provision, allowing employers up to 2.7 percent credit on the Federal tax even though they paid less than that under a state law, required that the reduced rate result from an approved experience rating plan.

A number of factors, however, delayed the adoption of experience rating in New York until 1945:

- The Federal act required a minimum of 3 years of experience with benefit payments; since payments began in New York on January 1, 1938, employers could not qualify for credit for reduced taxes under an experience rating plan before 1941.

- During the early years, the dominant problem was organizing the benefit payment administrative system.

- A prerequisite for experience rating was a satisfactory formula for varying employers' rates — one that would assure equity among employers, preserve the solvency of the Fund, and be administratively workable.

- The issue of experience rating was controversial.

The 1940 Legislature passed an experience rating bill, but it was vetoed by Governor Herbert Lehman. Studies of experience rating continued: in 1943 and 1944, the State Division of Employment made actuarial studies of benefit experience, by industry and size of firm, covering the 3 benefit years from April 1940 through May 1943.

Tax Credit Plan

An amendment providing an experience rating system and potential reductions in employer tax payments was enacted in New York State effective July 1, 1945. Known as the Tax Credit Plan, the amendment incorporated an approach to solvency of the Unemployment Insurance Fund and tax reductions that was unique among the states. It contained these features:

1. It provided for reduction in employer tax payments only when a surplus above a specified legal reserve existed in the State's Unemployment Insurance Fund. The legal reserve was set at four times the preceding year's taxes due (at 2.7 percent) — 10.8 percent of the preceding year's taxable payrolls.

2. The surplus was to be rebated to qualified employers each year in the form of tax credits against the following year's tax liabilities based on the standard 2.7 percent tax rate. The amount of tax credit would vary among employers depending on factors bearing a direct relation to the risk of uemployment.

3. There was provision for continued growth of the Fund each year and continued tax payments by employers each year. The surplus would not be distributed unless it exceeded 10 percent of the preceding year's taxes due, and the tax credits distributed to employers in any one year would not exceed 60 percent of the preceding year's tax payments due at 2.7 percent.

4. The individual employer's experience with the risk of unemployment was measured by three factors: (a) the stability of his annual payrolls, (b) the stability of his quarterly payrolls, and (c) the number of years for which he had contributed to the Unemployment Insurance Fund. Decline in payrolls and a brief existence made for a less favorable experience rating for a firm.

Unlike the situation in other states, unemployment benefits or benefit wages (wages earned by beneficiaries) did not affect the individual employer's tax rate. This removed some motivation for employers to hold down benefits in order to reduce their tax payments.

In 1947, as a result of employer pressure, New York enacted two changes in experience rating. A benefit-wage factor (wages earned by beneficiaries from base-year employers in relation to employer payrolls) was substituted for the annual payroll factor as one measure of an employer's experience. The legal reserve was reduced to 9.45 percent of taxable payrolls—three and a half times the previous year's taxes due. In 1948, the legal reserve was reduced to $900 million or 9.45 percent of insured payrolls, whichever was less.

Tax credits were granted to qualified employers for payroll years ending in June 30, 1946 and 1947, and September 30, 1948 and 1949. After heavy outlays in the post-war economic recession of 1948-1949 had lowered the Fund below the $900 million legal reserve, all employers were required to pay taxes at the standard rate of 2.7 percent of taxable payrolls in 1950 and 1951.

Experience Rating

In 1951, New York adopted a third approach to Fund management (basically, the system currently in effect) and changed the method of establishing the individual firm's tax rate. The 1951 Hughes-Brees amendments eliminated the tax credit system and the concept of legal reserve and distribution of surplus. Instead, they set up a range of tax rates below 2.7 percent for employers with favorable experience ratings.

Besides increasing the number of experience rating classes among employers, the 1951 amendments changed the formula for evaluating experience. Four factors affected an employer's rating:

1. Benefits paid his former employees.

2. Quarterly decreases in his total payrolls.

3. Annual decreases in his taxable payrolls.

4. Length of time in the unemployment insurance system.

Benefits paid former employees were by far the most influential factor. This factor was derived by balancing the employer's account (see below) and by computing this balance as a percent of his taxable payroll, then translating the resulting account percentage into a point system.

An individual account for each employer was established within the Unemployment Insurance Fund solely as a bookkeeping device for computing taxes. The State Fund remained pooled so far as benefit payments to unemployed workers were concerned. The account of each employer was charged with benefits paid to his former employees and credited with unemployment insurance taxes he paid; a balance was derived on the tax computation date (every July 1).

Thus the 1951 law provided for ensuring adequate funds for benefit payments through a varying scale of rates for employers which shifted up or down according to the condition of the State Unemployment Insurance Trust Fund. The scale of tax rates assigned to employers in any year was based on the Size-of-Fund Index, the percentage that the Fund balance on each year's computation date bore to statewide annual taxable payrolls. Within that scale, an employer's rate was based on his individual experience rating.

To qualify for experience rating under the 1951 legislation, an employer must have:

1. Been in the unemployment insurance system for 14 calendar quarters before the tax rate computation date on July 1.

2. Paid some wages in the last calendar year.

3. Had no negative balance in his account on July 1 of the 3 preceding years.

4. Filed all required contribution reports within a prescribed time limit.

Firms which did not qualify paid the full 2.7 percent State rate, but tax rates were limited to the first $3,000 of wages paid each employee, in conformance with the Federal stipulation.

The 1951 legislation also established a general account for bookkeeping purposes and as a warning device on the status of the Fund balance. Any employer whose account had a negative balance on the July 1 tax computation date was given a zero balance, the amount of his negative balance being charged against the general account. Other nonchargeable benefits (e.g., for defunct firms and refunds) were charged to the general account. The legislation provided for a surtax or subsidiary contribution from employers when the general account balance fell below a specified percentage of statewide taxable payrolls. This subsidiary contribution, when imposed, was a tax for all employers, but varied from year to year depending on the general account percentage. The general account was credited with other income, including interest on the Fund, balances of employers no longer in the system, and subsidiary contributions.

Changes in the Fifties and Sixties

In 1956, the minimum employer coverage required for experience rating was reduced to 4 completed calendar quarters before the computation date, to conform to the Federal amendment.

Legislation in 1958 made several changes in tax rates and in financing provisions, designed to strengthen the general account of the Unemployment Insurance Fund. Effective in 1959, the tax rate for firms with negative account balances and for firms delinquent in filing reports was raised to 3 percent. Effective in 1960, the tax rate for firms with negative balances for 2 successive years was raised to 3.2 percent.

In addition, the entire negative balance of an employer was no longer transferred to the general account, but only that amount that exceeeded 2 percent of his annual payroll. An employer who had a positive account balance, but who had had any negative balance transferred to the general account within the 3 preceding years, was required to pay at least 2.7 percent. Under a special provision effective June 30, 1959 (but voided in 1963) a varying percentage was diverted from employer accounts to the general account to raise the general account balance before subsidiary taxes were charged.

Under a tax schedule revision that became effective in 1959, most employers had to pay higher tax rates than formerly. An employer was permitted to make voluntary contributions in order to raise his account balance and thus reduce his tax rate for the next year (first applicable with computation of 1961 tax rates). If the voluntary contribution did not lower his tax rate, however, it was not refundable.

In 1963, the benefit factor or employer account percentage (the balance in an employer's account as a percentage of his taxable payroll) became the sole factor for measuring the employer's experience. The tax computation date was changed to December 31, and the payroll year was defined as the 12 months ending the preceding September 30. Any employer who had part of a negative balance transferred to the general account was required to pay at least 2.9 percent in the 4 succeeding years.

In 1966, the method of determining the subsidiary tax was changed, in order to reduce year-to-year fluctuations in rates. And, as of December 31, 1970, any year-to-year increase in the subsidiary tax was limited to 0.3 percent.

The Seventies

Several changes in New York's taxing provisions took effect in the 1970's, most of them to conform with Federal amendments and rulings. New York's standby legislation of 1965 that extended compulsory coverage to nonprofit organizations was approved by the U.S. Secretary of Labor in 1970 and became effective in 1971. This legislation allowed nonprofit organizations to choose either reimbursement of benefits paid or tax payments. According to the Federal amendments of 1970, nonprofit organizations that were covered before 1969 could have their account balance as of January 31, 1971 credited against their benefit charges if they elected reimbursement of benefits paid.

The first change in the taxable wage base of the employer's payroll since 1938 became effective in January 1972. The taxable wage base rose from the first $3,000 of each employee's wages to the first $4,200. The second change, effective in January 1978, raised the taxable wage base to $6,000.

The tax rate schedule after 1972 provided a range of rates for negative account employers on the basis of their account percentage and also expanded the range of rates for employers with positive account balances. The total tax, regular plus subsidiary, can not be less than 0.3 percent for any employer.

The tax rate for new employers and employers who paid no remuneration in the preceding year has been set at the same rate as for employers with positive account percentages under 1 percent, but not to exceed a maximum tax rate of 2.7 percent. Two groups of employers are taxed at least 2.7 percent: those who do not file all required reports and those who have had a negative balance transferred to the general account during the 3 preceding payroll years.

Employers primarily engaged in freezing or canning locally grown fruits or vegetables could elect to pay a fixed rate of 3.2 percent for 3 years, starting in 1973. Tax relief for the apparel and construction industries similar to that for the cannery industry was approved in 1977, except that the fixed rate for the apparel industry is 3.0 percent.

Under the Federal Employment Security Amendments of 1970, the Federal unemployment tax was raised by 0.1 percent to 3.2 percent. The 2.7 percent offset to the states remained and the Federal share was 0.5 percent. The tax was increased to 3.28 percent for 1973 to finance emergency benefits. In 1977 the Federal unemployment tax, excluding the offset to states, increased from 0.5 percent to 0.7 percent to build up the Loan Fund for states with depleted reserves and to meet the cost of extended and emergency benefits. The higher tax rate will continue until all advances from general revenue to the Federal Extended Unemployment Compensation Account have been repaid. Emergency benefits have been financed from Federal general revenues since April 1, 1977.

New York borrowed funds from the Federal Loan Fund in 1977 because of inadequate State reserves for current unemployment insurance payments. This Fund provides noninterest-bearing advances for unemployment insurance costs to states for one month at a time. Federal legislation enacted in 1977 extends the time for the State to repay the loan without incurring a reduction in tax credits if the State takes appropriate action to restore the financial soundness of its unemployment account.

APPENDIX A

Chronology of Significant Changes in
Federal Unemployment Insurance Legislation
1935-1977

FEDERAL LEGISLATIVE PROVISIONS

Effective date		Public Law and year
January 1936	The Federal Social Security Act is passed by Congress in August 1935 (declared constitutional by U.S. Supreme Court, May 1937). Title III provides for Federal grants to the states for unemployment compensation administration, through public employment offices or federally approved agencies. State taxes are to be used only for benefit payments. Title IX imposes a Federal tax on all employers of eight or more employees in each of 20 weeks in a calendar year. An employer's tax payments to a state can be credited against up to 90 percent of Federal tax due. Credit of 90 percent of the Federal tax is allowed, even if an employer pays reduced taxes in a state experience rating system; an employer must have at least 3 years of unemployment insurance coverage to qualify for experience rating. The Federal law contains a few standards to which states must conform in order to receive these administration grants and credit allowances against Federal tax for their employers. The Federal tax is 1 percent of total payrolls in 1936, 2 percent in 1937, and 3 percent in 1938 and later (applied to taxable payrolls as of 1940).	
	The Federal law excludes from coverage: (1) agricultural labor; (2) domestic service in a private home; (3) service of officers or crew members on a vessel on the navigable waters of the United States; (4) service of an individual employed by his child or spouse, or of a child under 21 employed by a parent; (5) employment in the U.S. government or its instrumentalities; (6) employment for a state or a political subdivision; and (7) employment in a nonprofit institution operated exclusively for religious, charitable, scientific, or literary purposes, or for the prevention of cruelty to children or animals.	271 of 1935
April 1939	Sections of Title IX of the Social Security Act are incorporated into the Internal Revenue Code as the Federal Unemployment Tax Act (FUTA).	1939

Effective date		Public Law and year
July 1939	The Railroad Retirement Act provides for a special Federal system of unemployment insurance for the railroad industry, which is excluded from the Federal Unemployment Tax Act.	722 of 1938
January 1940	The Social Security Act Amendments of 1939 make a number of important changes in the law. The tax base under the Federal Unemployment Tax Act is limited to the first $3,000 of a covered worker's earnings.	
	These exclusions from coverage are added: (1) newsboys under 18; (2) student nurses and interns in a hospital; (3) insurance agents or solicitors on commission only; (4) domestic service in a college club or fraternity; (5) casual labor not in the employer's trade or business; (6) students employed in a school where they are enrolled, if they earn $45 or less in a calendar quarter.	
	These employers are brought under coverage: (1) Federal instrumentalities not wholly owned by the Federal Government, such as national banks and state bank members of the Federal Reserve System; (2) instrumentalities not wholly owned by state and local governments unless they have constitutional immunity.	
	States are required to establish merit systems for personnel who administer the unemployment insurance program.	379 of 1939
September 1944	The Serviceman's Readjustment Act of 1944 (the G.I. Bill) provides readjustment allowances of $20 a week for a maximum of 52 weeks to unemployed veterans of World War II and to self-employed veterans with net monthly profits under $100. For most veterans, this program ended in July 1952.	346 of 1944
October 1944	The George Loan Fund is established under the War Mobilization and Reconversion Act of 1944, for Federal loans to states whose revenues are inadequate for the increased benefit payments expected to result from the reconversion to peace. This fund was never used and the legislation lapsed.	458 of 1944

Effective date		Public Law and year
August 1946	Coverage is extended to maritime service. A state may cover the crew of an American vessel if the operating office is within the state.	719 of 1946
July 1947	Seamen formerly employed by the U.S. War Shipping Administration are eligible for Reconversion Unemployment Benefits for Seamen, paid under conditions of the state in which they file the claim. This program ended on June 30, 1950.	719 of 1946
October 1948 (retro-active to 1939)	Following a Supreme Court decision, the term "employee" in the Federal Unemployment Tax Act is limited to employees under the common law rule of "master-servant" relation. Federal coverage is withdrawn from some 500,000 persons, including outside salesmen.	642 of 1948
October 1952	The Veterans' Readjustment Assistance Act of 1952 (UCV program) provides up to 26 weeks of benefits at $26 a week or a total of $676 to unemployed veterans of the Korean Conflict (discharged between June 27, 1950 and February 1, 1955). Federal supplements raise the state benefit to $26 or pay the veteran after he exhausts state benefits. This program ended for most veterans on July 26, 1958, and for all on January 31, 1960.	550 of 1952
August 1954	The Employment Security Administrative Financing Act of 1954 (the Reed Act) earmarks all proceeds of the Unemployment Tax Act to unemployment insurance purposes by automatically appropriating to the Federal Unemployment Trust Fund any annual excess of Federal tax receipts over employment security administrative expenditures approved by Congress. It also creates a Loan Fund to provide interest-free loans to states whose unemployment insurance Trust Funds are below the amount they paid out in benefits the previous year. A state has 4 years to repay advances from the Federal Loan Fund. If the state does not repay the loan within the specified time, allowable tax credits to employers in the state will be reduced. In effect, this results in a tax increase to employers in the states involved.	

Effective date		Public Law and year
August 1954 (continued)	The act also provides for the return to the states of any excess above a $200 million reserve in the Loan Fund, to be used for paying benefits and, under certain conditions, for state administrative expenses, including building.	567 of 1954
January 1955	States are allowed to reduce the tax for newly covered employers with at least 1 year's (instead of 3 years') experience with risk of unemployment.	
	Title XV of the Social Security Act, under the Unemployment Compensation for Federal Employees (UCFE) Program, extends coverage to Federal civilian employees employed after December 31, 1954, subject to state conditions.	767 of 1954
January 1956	Coverage is extended to employers of four or more workers in 20 weeks in a calendar year.	767 of 1954
June 1958	The Temporary Unemployment Compensation (TUC) Act of 1958 permits any state which signs an agreement with the U.S. Secretary of Labor to pay extended benefits of half the regular amount to individuals who had exhausted benefits after June 30, 1957 and before April 1, 1959. New York State grants up to 13 additional weeks of benefits to such workers.	
	The Federal Government finances the program through loans to participating states, which are repaid by reduced tax credits to employers for 1963 and thereafter, if the state has not repaid the amount to the Federal treasury by November 10 of the taxable year. (The TUC program began June 23, 1958 and ended in 1959 — on April 10 or, for Federal employees and veterans, on June 30. New York repaid by transfers of $23 million in 1963, $46 million in 1964, and $20 million in 1965.)	441 of 1958
October 1958	The Ex-servicemen's Unemployment Act of 1958 (UCX), a permanent program, provides benefits for veterans, under the terms of the state in which the claims are filed.	848 of 1958

Effective date		Public Law and year
September 1960	Legislation limits advances from the Federal Loan Fund to only those states which may not meet benefit claims in the current or following month, and limits the amount to that required for 1 month's benefits. Recovery of advances from the Federal Loan Fund to states by reducing tax credits to employers in the states involved will start 2 years after the loan has been made.	778 of 1960
January 1961	Coverage under the Unemployment Compensation for Federal Employees (UCFE) program is extended to certain instrumentalities that are neither wholly nor partially covered by the United States, such as Federal Reserve banks, land banks, and credit unions. Puerto Rico is brought into the Federal-State system.	
	The Federal payroll tax is increased from 3.0 to 3.1 percent without change in the 2.7 percent offset provision, thus increasing the net Federal tax from 0.3 to 0.4 percent. Receipts from this 0.4 percent tax are credited to a new Employment Security Administration Account, from which an annual maximum of $350 million is allowed for state administration. At the end of each fiscal year, excess is to be transferred to the Federal Unemployment Account (Reed Act Loan Fund) to build up a balance of $550 million (formerly $200 million) or 0.4 percent of taxable payrolls, if higher. Any surplus over this stipulated ceiling is to be returned to the states.	778 of 1960
April 1961	The Temporary Extended Unemployment Compensation Act (TEUC) of 1961 provides for federally financed extended benefits of one-half the regular benefit entitlement to workers who exhaust regular benefits after June 30, 1960 and before April 1, 1962. The program, which includes Federal civilian employees and ex-servicemen, limits additional benefits to 13 weeks and reimburses states only for benefits paid after 26 weeks. The program, expiring June 30, 1962, is financed by a temporary additional Federal unemployment tax of 0.4 percent for 1962 and 0.25 percent for 1963.	6 of 1961

Effective date		Public Law and year
January 1962	Coverage is extended to American aircraft employees working outside the U.S.; to nonprofit institutions not exempt from income tax; to "feeder organizations" of nonprofit institutions; and to various employees of certain income tax-exempt organizations (except persons who earn less than $50 in a calendar quarter or are students).	778 of 1960
January 1970	The Employment Security Amendments of 1970 make major changes in the unemployment insurance system effective at varying dates (see below). Retroactive to January 1970 the Federal unemployment tax is increased from 3.1 percent to 3.2 percent; 0.5 percent is the net tax received by the Federal Government. Receipts from the 0.1 percent increase are earmarked in 1970 and 1971 for a new Federal Extended Unemployment Compensation Account. States may give covered nonprofit organizations the option of either reimbursing the Unemployment Insurance Fund for benefit charges or paying an assigned tax rate. In the case of nonprofit organizations covered before 1969 that elect reimbursement, states may credit the excess of prior tax payments over benefit charges before such election against future benefit charges. Added to exclusions from unemployment insurance coverage are services by the following: students employed under work-study programs, students' spouses employed under a program of financial assistance to the student, and workers in hospitals in which they are patients. (Students employed by the schools in which they were enrolled were excluded from coverage as of 1940 as were student nurses and interns in hospitals.)	373 of 1970
August 1970	The Employment Security Amendments Act of 1970 is passed. Effective immediately is the amendment that provides for judicial review of adverse determinations by the U.S. Secretary of Labor in state conformity or compliance proce dings. States may appeal to a U.S. Court of Appeals.	

Effective date		Public Law and year
August 1970 (continued)	The U.S. Secretary of Labor is to establish a Federal unemployment insurance research program, a Federal program of grants to train unemployment insurance personnel (Federal and state), and a Federal Advisory Council on Unemployment Compensation to review the program and recommend improvements.	373 of 1970
September 1970	The 1970 amendments repeal a Federal statute that denies unemployment benefits to ex-servicemen during periods to which terminal leave is allocated. In regard to accrued leave, ex-servicemen are to be treated as other unemployed workers are.	373 of 1970
October 1970	The Federal-State Extended Unemployment Compensation Program, a permanent program to extend duration of benefits during recessions, is legislated under the Employment Security Amendments of 1970. The program becomes operative nationally after January 1, 1972 whenever the seasonally adjusted insured unemployment rate for the nation is 4.5 percent or more for 3 consecutive months. A state may institute such a program on or after October 10, 1970. The program triggers on for a state when its insured unemployment rate averages 4 percent or more for 13 consecutive weeks and is at least 120 percent of the average rate for the corresponding 13-week period in each of the preceding 2 years. An extended benefit period begins with the third week after the week of an "on" indicator and ends with the third week after the week of an "off" indicator, that is, when the specified unemployment conditions nationally or within the state no longer exist. An extended benefit period, however, must remain in effect at least 13 consecutive weeks in any state and cannot be started on the basis of a state "on" indicator for another 14 weeks. Claimants who exhaust regular benefit rights during an extended benefit period are eligible for up to 13 additional weeks of benefits or the equivalent of half of the maximum weeks of regular benefits in the state, if that is less, with a 39-week ceiling in total benefits	

Effective date		Public Law and year
October 1970 (continued)	(regular and extended). Claimants whose benefit year has expired and who do not qualify for a new benefit year may also draw extended benefits.	
	The Federal Government pays half of the extended benefit cost, financing the program by receipts for 1970 and 1971 from a 0.1 percent increase in the Federal unemployment tax and thereafter by one-tenth of Federal tax receipts. An Extended Unemployment Compensation Account is established with a ceiling of $750 million or 0.125 percent of total wages in covered employment, if larger. Any remainder is to be retained in the Employment Security Administration Account.	
	The Federal Unemployment Account (Loan Fund) ceiling is changed to $550 million or 0.125 percent of total wages in covered employment, whichever is larger.	
	When all three accounts have reached their statutory limits and when any advances from U.S. Treasury general funds have been repaid, any excess is to be distributed to accounts of the individual states.	373 of 1970
January 1972	The Employment Security Amendments of 1970 extend coverage to (1) employers who have one or more employees in 20 weeks in a calendar year or a quarterly payroll of $1,500; (2) nonprofit organizations of four or more employees (excluding churches, religious organizations, and primary or secondary schools), state hospitals and state institutions of higher education; (3) outside salesmen and agent and commission drivers; (4) certain categories of agricultural processing workers; and (5) U.S. citizens working for American firms outside the U.S. (they must file their benefit claim in person within the U.S.).	
	College faculty and other professional workers in colleges are covered but are not eligible for benefits between successive academic years or 2 regular terms if they have a contract to resume work. Certain groups of workers in nonprofit organizations are	

Effective date		Public Law and year
January 1972 (continued)	excluded from coverage in addition to those excluded as of January 1970. The new exclusions are persons employed in sheltered workshops or in rehabilitation facilities in which they receive services; persons in a publicly financed unemployment work-relief or work-training program; workers who are prison inmates. States must give covered nonprofit organizations the option of either reimbursing the Fund for benefit charges or paying an assigned tax rate. (In 197- states were permitted but were not required to give this option to nonprofit organizations.) States must extend to municipal corporation or other governmental subdivisions permission to elect coverage only for hospitals and colleges that they operate, and the choice of making tax payments or reimbursements for benefit charges. The annual taxable wage base is raised to $4,200. New employers may be assigned a reduced tax rate of not less than 1 percent on a reasonable basis apart from experience with unemployment. State laws are required to include these provisions: 1. Benefits may not be paid unless the claimant has had some employment since the beginning of the preceding benefit year. (This eliminates the "double dip.") 2. Benefits may not be denied to workers who are in approved training programs. 3. Benefits may not be reduced or denied because a person who has worked in one state files his claim in another state or in Canada. 4. States must participate in arrangements for combining wage credits when the earnings are in two or more states. 5. Cancellation of wage credits or total reduction in benefit rights is prohibited except for misconduct in connection with work, fraud in connection with a claim, or receipt of disqualifying income, such as a pension.	373 of 1970

Effective date		Public Law and year
January 1972	The Emergency Unemployment Compensation Act of 1971 creates a new temporary program that provides an additional extension in benefits, effective January 30, 1972 and ending September 30, 1972. New claims will not be accepted after June 30, 1972. The program triggers on for a state when its insured unemployment rate, plus an adjustment rate for exhaustees, is 6.5 percent of more, provided that the trigger for payment of benefits under the Federal-State Extended Unemployment Compensation Act of 1970 is in effect or has terminated solely because the state no longer meets the requirement of an insured unemployment rate at least 120 percent of the average of the rates for the corresponding periods of the 2 preceding years. During this emergency benefit period, a claimant is eligible for up to 13 more weeks of benefits or half of the state's maximum of regular benefits, if less, after he has exhausted extended benefits. A claimant who has not exhausted extended benefits may receive emergency benefits if the extended benefit period has ended solely because the 120-percent trigger requirement was not met. Financed entirely by the Federal Government, emergency benefits are payable out of the Federal Extended Unemployment Account. Appropriations are authorized from the general revenues of the U.S. Treasury as repayable advances to the Account, which are to be repaid only when there is to be a distribution of excess tax collections to the states. The new act also extends to 1983 (from 1973) the authorization to return to the states any surplus in Federal unemployment tax receipts over stipulated ceilings in the Federal Employment Security Administration Account, Unemployment Account (Reed Act Loan Fund), and Extended Unemployment Compensation Account.	224 of 1971
July 1972	The Emergency Unemployment Compensation Act of 1971 is extended to March 31, 1973. To finance this, the Federal unemployment tax for 1973 is increased from 3.2 to 3.28 percent; the net Federal tax is 0.58 percent.	329 of 1972

Effective date		Public Law and year
October 1972	The permanent Extended Unemployment Compensation Program is temporarily modified by suspending until July 1, 1973 the 120-percent trigger requirement for extended benefits (see October 1970).	599 of 1972
July 1973	The 120-percent "on" and "off" trigger requirement for extended benefits under the permanent Extended Unemployment Compensation program is waived until January 1974. The new law permits a state to (1) ignore the 120-percent requirement for an "on" trigger if its insured unemployment rate is 4.5 percent or more, (2) disregard the 120-percent requirement as an "off" trigger if its insured unemployment rate is 4 percent or more, and (3) begin a new extended benefit period without regard to whether 13 weeks have expired since the last state extended benefit period. If the extended benefit period is still on as of December 31, 1973, benefits continue payable, except to new claimants, through March 1974.	53 of 1973
January 1974	Suspension of the 120-percent trigger for an extended benefits period continues through March 1974 if the state insured unemployment rate is 4 percent or more.	233 of 1973
April 1974	Suspension of the 120-percent trigger for an extended benefits period continues through June 1974.	256 of 1974
June 1974	Suspension of the 120-percent trigger for an extended benefits period continues through July 1974.	329 of 1974
August 1974	Suspension of the 120-percent trigger for an extended benefits period continues until April 30, 1975.	368 of 1974
January 1975	The Emergency Unemployment Compensation Act of 1974 renews temporary legislation providing additional benefits to claimants who have exhausted extended benefits (see January 1972). Emergency benefits, also known as Federal supplemental benefits (FSB), are payable to a claimant for 13 weeks or half of the state's maximum of regular benefits, if less. Termination date is March 31, 1977 but new claims will not be accepted after December 31, 1976.	

Effective date		Public Law and year
January 1975 (continued)	Triggers for activating or deactivating a period of emergency benefits are the same as for an extended benefit period, except that an emergency benefit period remains in effect for at least 26 weeks. The program is fully financed by the Federal Government through repayable advances from Federal general revenues to the Extended Unemployment Compensation Account. The act also extends waiver of the 120-percent requirement for the state "on" trigger for an extended benefit period to December 31, 1976. States in which an extended benefit period has not been triggered on are given the option until December 31, 1976 of paying extended benefits, reimbursed in full by the Federal Government, when the national average insured unemployment rate is 4 percent instead of 4.5 percent, the regular national "on" trigger.	572 of 1974
January 1975	The Emergency Jobs and Unemployment Assistance Act of 1974 provides a temporary program of Special Unemployment Assistance (SUA) to workers who are not covered by state laws but who otherwise meet the state's earnings and eligibility requirements. These workers are mainly state and local government workers, domestic workers and farm workers. The self-employed are not included. Benefits are payable under the state's benefit scale for a maximum of 26 weeks; the base period is the 52 weeks before the first claim. This temporary program, financed from Federal general revenues, becomes operative in all participating states when the national total unemployment rate for 3 consecutive months (seasonally adjusted) averages 6 percent or more. If the national trigger is not "on," the special program is operative in an area whose 3-month unemployment rate averages 6.5 percent, if that area is a prime-sponsor area under the Comprehensive Training and Employment Act of 1973 (P.L 93-203). A special unemployment assistance period remains in effect for at least 13 weeks. It starts with the third week after the week of the "on" trigger and ends with the third week after the week of the "off" trigger. The program terminates	

Effective date		Public Law and year
January 1975 (continued)	March 28, 1976, except that the cutoff date for new claimants is December 28, 1976. The act also authorizes an expanded federally financed public service employment and public works program to provide emergency jobs.	567 of 1974
April 1975	Maximum duration of emergency benefits is increased to 26 weeks until June 30, 1975 under the Tax Reduction Act of 1975.	12 of 1975
July 1975	The Emergency Compensation and Special Unemployment Assistance Act extends the Emergency Benefits Program through March 31, 1977. It continues the 26-week maximum of emergency benefits through 1975. For 1976 and through March 1977, the trigger for payment of emergency benefits is modified. The insured unemployment rate in a state will determine the duration of emergency benefits: up to 26 weeks of benefits if the rate is 6 percent or higher; up to 13 weeks of benefits if the rate is 5 percent or more but less than 6 percent; no emergency benefits if the state's rate is below 5 percent. An emergency benefit period must remain in effect at least 26 weeks, except that a period started in 1975 may not end before January 1, 1976. Eligibility requirements for receipt of emergency benefits are modified: an unemployed worker must be willing to apply for or attend a vocational training course if the state determines that he needs such training. Total emergency or Federal supplemental benefits received by an unemployed worker must be reduced by the amount of any special unemployment assistance he has received in the 65 weeks before his first claim for emergency benefits. Suspension of the 120-percent requirement for triggering "on" or "off" an extended benefits period is continued to March 31, 1977.	

Effective date		Public Law and year
July 1975 (continued)	Maximum duration of Special Unemployment Assistance (SUA) benefits is increased to 39 weeks. The program is extended to March 31, 1977 but December 31, 1976 is the deadline for new claims. Teachers and other professional school personnel may not collect SUA benefits between academic terms or years if they have contracts for both periods. SUA benefits will be reduced by any other unemployment benefits a claimant has received during an overlapping state benefit year. A SUA benefit year is the 52-week period after a valid SUA claim is filed.	
	The law suspends for 3 years until January 1, 1978 the provision that reduces tax credits to employers in states which borrow funds from the Federal Unemployment Trust Fund and do not repay the loan by November of the second taxable year following the loan. If the state takes appropriate action to restore the financial soundness of its unemployment account, January 1, 1978 will be deemed to be the start of the first taxable year after January 1, 1974.	45 of 1975
October 1976	The Federal Unemployment Compensation Amendments of 1976 broaden coverage, raise the taxable wage base and Federal unemployment tax, revise the trigger mechanism for extended benefit periods, and modify benefit provisions. The act permits states to apply to the Federal Unemployment Trust Fund for loans for a 3-month period instead of a 1-month period, although funds are still to be advanced one month at a time. Coverage is extended to the Virgin Islands, subject to approval of its unemployment compensation law by the Secretary of Labor. Weekly unemployment benefits of retirees will be reduced by the total amount of their weekly pension, effective October 1979. Other provisions are effective at different dates and are described below.	566 of 1976
January 1977	The Federal unemployment tax is raised by 0.2 percent and the net Federal tax increases from 0.5 percent to 0.7 percent. The rate increase is to remain in effect until all advances to the Federal Extended Unemployment Compensation Account have been repaid.	

Effective date		Public Law and year
January 1977 (continued)	The Federal Special Unemployment Assistance (SUA) Program, the temporary program that provides unemployment benefits to workers not currently covered by state law, is extended until January 1, 1978 for new claims, with a cutoff date for all payments on June 25, 1978.	566 of 1976
April 1977	The state trigger for activating the extended benefits period is modified on a permanent basis. The 120-percent trigger requirement is mandatory when the state unemployment rate is between 4 and 5 percent and becomes optional for the state when its insured unemployment rate averages 5 percent or more. The insured unemployment rate for the Federal "on" and "off" trigger is now based on a 13-week average instead of a 3-month average.	566 of 1976
April 1977	The Emergency Unemployment Compensation Act of 1977 extends the Emergency Benefits Program for new claimants until October 31, 1977 and for claimants already in the program by that date to January 31, 1978. Maximum duration of emergency or Federal supplemental benefits is limited to 13 weeks after April 1977. These benefits will be financed hereafter from general tax revenues. The combined maximum duration of regular, extended and Federal supplemental benefits will be 52 weeks. A claimant must actively seek work and accept any offer of suitable work to be eligible for emergency benefits. Emergency benefits can not be paid to a claimant more than 2 years after the end of his last benefit year. Overpayments of emergency benefits must be repaid by the claimant. Costs of emergency benefits paid after March 31, 1977, will be financed through Federal general revenues rather than through employer contributions to payroll taxes.	

Effective date		Public Law and year
April 1977 (continued)	States may be granted further extension to January 1980 to repay funds borrowed from the U.S. Treasury for unemployment insurance costs without incurring a reduction in tax credits. January 1, 1980 will be deemed to be the start of the first taxable year after January 1, 1974, if the state takes appropriate action to restore the financial soundness of its unemployment account. The law also postpones to April 1980 the date when states must reduce unemployment benefits to claimants by the amount of pension they are receiving.	19 of 1977
January 1978	Under the Federal Unemployment Compensation Amendments of 1976 the taxable wage base of the employer's payroll is raised from the first $4,200 of each employee's wage to the first $6,000, effective January 1, 1978.	
	Coverage is expanded in the states, effective with new claims on or after January 1, 1978, to include the following: employers of 10 or more agricultural workers in each of 20 weeks in the current or preceding calendar year or employers who paid cash wages of $20,000 or more for agricultural labor in a calendar quarter (crew leaders are considered employers under certain conditions); employers who paid domestic workers cash wages totaling $1,000 or more in any calendar quarter; states, cities and other local governmental organizations (certain specified categories of employees, e.g. elected or judicial officials, may be excluded); nonprofit elementary and secondary schools. Benefit costs attributable to pre-1978 services with newly covered employers will be federally financed, but states will finance benefits based on employment in 1978 and thereafter.	

Effective date		Public Law and year
January 1978 (continued)	The 1976 and 1977 amendments contain disqualification provisions, as follows: states must deny benefits to teachers and other professional school staff between 2 successive academic years or regular terms if they have reasonable assurance of continuing employment; states <u>may</u> deny them benefits during vacations or holiday recesses; states <u>may</u> deny benefits to nonprofessional employees of elementary and secondary schools in similar periods if they have a reasonable assurance for continuing employment; benefits are not payable to professional athletes between successive sports seasons; benefits are not payable to illegal aliens. States are prohibited from disqualifying a claimant solely because of pregnancy. These provisions are effective with 1978 certification of a state's law by the Secretary of Labor (or with 1979 certification, if the state legislature does not meet in 1977).	566 of 1976 and 19 of 1977

APPENDIX B

Chronology of Significant Changes in
the New York State Unemployment Insurance Law
1935-1977

COVERAGE

Effective date		Chapter and year
April 1935	New York State Unemployment Insurance Law enacted April 25 (declared constitutional by U.S. Supreme Court, November 1936). Tax provisions are effective January 1936; benefits are first payable January 1, 1938.	
	Employers of at least four persons for 13 or more weeks in a calendar year are liable for taxes. The following kinds of employment are excluded, or exempted from coverage: government; agriculture (as defined in the law); nonprofit religious, charitable, scientific, literary, or educational organizations; and services of an individual's spouse or minor child. Also excluded from coverage are nonmanual employees paid more than $2,500 a year or more than $50 a week. Exempted employers may elect coverage with the consent of the Industrial Commissioner.	468 of 1935
January 1936	Nonmanual employee wage limit is raised to $2,600.	117 of 1936
January 1937	Employers of four or more persons on 15 or more days in any calendar year are liable for taxes. All employees whose annual wages exceed $3,000 are excluded from coverage.	142 of 1937
January 1938	Coverage is extended to all workers of covered employers irrespective of the amount of their annual wages.	10 of 1938
June 1939	Part-time employment of students under 21 years regularly attending daytime school is excluded from coverage.	662 of 1939
July 1939	Employment covered under the Federal Railroad Unemployment Insurance Act is excluded from State unemployment insurance coverage.	662 of 1939
January 1940	Coverage is extended to certain Federal instrumentalities, such as national banking associations.	506 of 1940

Effective date		Chapter and year
March 1940	Employment as a golf caddy is excluded from coverage.	217 of 1940
April 1940	Part-time employment of daytime students, regardless of their age, is excluded from coverage.	799 of 1940
July 1941	Coverage is extended to persons temporarily employed by nonprofit organizations for construction, remodeling, or demolition of buildings.	357 of 1940
October 1942	New York Court of Appeals rules that maritime workers are covered under the unemployment insurance law.	
May 1943	Constitutionality of covering maritime workers under state unemployment insurance systems is upheld by U.S. Supreme Court.	
October 1945	New York participates in the Interstate Maritime Reciprocal Arrangement for coverage of maritime workers in interstate and foreign commerce. Employer's tax liability commences as of January 1, 1945.	623 of 1945
June 1947	Coverage is extended to employees of the State of New York in the classified service employed continuously for 1 year, the State to reimburse the Unemployment Insurance Fund for benefits paid to former employees.	507 of 1947
April 1948	Municipal corporations and other governmental subdivisions that elect coverage are to reimburse the Unemployment Insurance Fund for benefits paid their employees instead of paying contributions on wages.	844 of 1948
July 1950	Persons employed as custodians or custodial engineers under contract to a Board of Education in cities of 500,000 or more (New York City and Buffalo) are covered on a compulsory basis.	648 of 1951
April 1951	An exempt operator of a building may elect coverage exclusively for his building maintenance employees.	695 of 1951

Effective date		Chapter and year
March 1952	Coverage is extended to nonprofit organizations engaged in the production of plays and musicals.	397 of 1952
July 1954	Nonprofit organizations engaged in the production of concerts are included in coverage.	129 of 1954
April 1955	Coverage is extended to employees of the New York State Division of Military and Naval Affairs.	597 of 1955
July 1955	All State employees in the classified service are covered, regardless of length of service.	598 of 1955
January 1956	Coverage is extended to employers of three or more persons on any day beginning January 1, 1956. In the case of personal or domestic service, however, only employers of four or more persons are covered.	621 of 1955
January 1957	Coverage is extended to employers of two or more persons on any day beginning January 1, 1957. Coverage for personal or domestic service continues as in 1956.	621 of 1955
July 1958	Employment of a baby-sitter under 18 years of age is excluded from coverage.	757 of 1958
April 1959	Patients in State mental institutions employed in sheltered workshops are excluded from coverage.	34-19 of Mental Hygiene Law of 1959
April 1959	Minors employed in casual labor not involving use of power-driven machinery at a residence or nonprofit organizations are excluded from coverage.	642 of 1959
January 1960	Coverage is extended to all employers who pay wages of $300 or more in any calendar quarter. Coverage for personal or domestic service continues only for employers of four or more workers.	419 of 1959

Effective date		Chapter and year
January 1962	Coverage is extended to additional Federal instrumentalities, such as Federal credit unions, Federal Reserve banks, and Federal land banks.	212 of 1962
January 1963	Municipal corporations and other governmental subdivisions which elect coverage may make tax payments or reimburse the Unemployment Insurance Fund for benefits paid their employees.	901 of 1962
July 1963	Exempt employers who elect coverage can exclude certain categories of employees — namely, executive, administrative and professional personnel, teachers, volunteers, students and their spouses, recipients of charitable aid, and ministers or members of religious orders.	991 of 1962
July 1963	Employment of children under 14 years is excluded from coverage.	799 of 1963
Indefinite date. Law enacted July 1965, became effective January 1971 (see below)	Employees of nonprofit organizations with payrolls of $1,000 or more in a calendar quarter to be covered on a compulsory basis. The act not to be operative until the Federal Government approves the provision that permits the organizations the option to reimburse the Unemployment Insurance Fund for benefits paid to former employees rather than to pay a tax on payrolls.	740 of 1965
July 1965	Coverage is extended to full-time year-round employees of the State Legislature who work in Albany.	863 of 1965
January 1966	Personal or domestic workers in a private home are covered if the employer pays an aggregate of $500 in cash to such workers in a calendar quarter.	103 of 1965
January 1967	Compulsory coverage is extended to workers engaged in processing agricultural products for an employer who is not an operator of a farm. Previously, coverage of agricultural processing workers was limited to those engaged in commercial canning or freezing, or handling after delivery to a terminal.	196 of 1966

Effective date		Chapter and year
May 1969	Voluntary coverage is extended to agricultural labor, provided the employer elects such coverage. Short-time employees and foreign workers may be excluded.	554 of 1969
July 1969	Daytime students who attend colleges or technical schools above high school level are no longer excluded from coverage.	1091 of 1969
January 1971	Mandatory coverage of nonprofit organizations becomes effective after approval of New York's 1965 statute (see above) by the U.S. Secretary of Labor in September 1970. The extension in coverage applies to nonprofit organizations with payrolls of $1,000 or more in a calendar quarter, operated exclusively for religious, charitable, scientific, literary, or educational purposes. Ministers, persons employed in religious functions, doctors, teachers, and certain other specified categories of personnel are excluded from coverage. Nonprofit organizations are given the option of paying unemployment insurance taxes on their payrolls or of reimbursing the Fund for benefits paid to former employees.	740 of 1965
January 1971	Nonprofit organizations covered before 1969 that elect benefit reimbursement for 1971 will have their positive account balance credited against benefit charges in 1971 before being assessed for reimbursement. Municipal corporations and other governmental subdivisions may elect coverage limited to the schools and hospitals which they operate.	1027 of 1971
June 1971	Cities with a population of 400,000 or more are required to cover school custodial employees.	509 of 1971
January 1972	Provisions on extension of coverage to nonprofit organizations and other activities are brought into conformity with the provisions of the Federal Employment Security Amendments of 1970 that are effective in 1972. In addition to nonprofit employers with quarterly payrolls of $1,000 or more, mandatory coverage is extended to nonprofit employers of four or more in 20 weeks, and to some previously excluded occupations—doctors, professional scientific workers, and college teachers, administrators and	

Effective date		Chapter and year
January 1972 (continued)	research staff. Coverage is also extended to the unclassified service—including teachers—in State hospitals and State educational institutions. Teachers and other professional staff in nonprofit primary or secondary schools may be voluntarily covered by their employer. Teachers and other professional educational personnel who are covered are not entitled to benefits between 2 successive academic years or regular terms if they have a contract for both years or terms.	
	Employment of students by their schools and of their spouses under a program of financial assistance is excluded from coverage.	1027 of 1971
	Coverage is also extended to: outside salesmen and drivers paid on a commission basis; a few additional categories of agricultural processing workers; employment in the United States, Virgin Islands, or Canada that is directed from New York State, if it is not covered under any other unemployment insurance law; and U.S. citizens working for American firms outside the U.S. whose principal place of business is in New York State.	607 of 1971
May 1972	Compensation paid to principal stockholders by corporations not subject to the Federal unemployment tax is no longer excluded from remuneration.	212 of 1972
September 1972	Employment of students under 22 years of age under a full-time work-study program in colleges is excluded from covered employment.	967 of 1972
September 1974	Under exclusion from coverage, the definition of service by minors is modified to specify persons under 21 years engaged in casual labor or working for a parent and to omit reference to age in the case of minors working as baby-sitters.	939 of 1974

Effective date		Chapter and year
January 1975 (Temporary Federal program)	Local government employees are covered by a temporary Federal program, called Special Unemployment Assistance (see Federal legislation-P.L. 567 of 1974). Also covered by the program are several other groups of workers not covered under the regular State unemployment insurance system who meet the State's earnings and eligibility requirements.	
January 1978	In agreement with Federal legislation, compulsory coverage is expanded to include employers of 10 or more agricultural workers in each of 20 weeks in a calendar year, and municipal and other local governmental organizations. Teachers and other professional workers in elementary and high schools are brought under compulsory coverage (see also later section on "Disqualifications"). Also covered are some regularly excluded groups of workers if they are employed in nonprofit or governmental organizations, e.g., high school students working after school or during school vacation.	
	Persons employed in religious functions and persons performing and receiving services at rehabilitation facilities or sheltered workshops, and college students employed by their schools and college students in a full-time work-study program continue to be excluded from coverage. Work of prison inmates is added to the exclusions from coverage.	675 of 1977

BENEFIT RATES

Effective date		Chapter and year
April 1935	Benefits payable for a full week of unemployment are a minimum of $5 and a maximum of $15. The benefit rate is set at 50 percent of full-time weekly wages—wages that would be earned in the worker's usual employment at current rates for a full number of customary hours per week. Benefits are first payable January 1938. No provision is made for benefits for part-week unemployment.	468 of 1935
January 1937	The minimum benefit for full-week unemployment is raised to $7; the maximum remains at $15. The benefit rate is set at 50 percent of full-time weekly wages, which are defined as one of the following: (1) the weekly equivalent of a wage rate that is fixed for a day, week, or longer period; or, in the absence of a fixed rate, (2) the highest weekly wages in a base-year calendar quarter, when that is the only quarter of employment; or (3) the average of the highest weekly wages in 2 calendar quarters of base-year employment.	142 of 1937
April 1938	Earnings under $2 in a week are to be disregarded in determining unemployment.	265 of 1938
July 1939	The rate for computing benefits is based on highest quarterly earnings in the base period. Earnings under $3 in a week are to be disregarded in determining unemployment.	662 of 1939
June 1942	The maximum benefit for full-week unemployment is raised to $18; the minimum remains at $7.	640 of 1942
November 1942	Benefits for part-week unemployment are started, payable for each accumulation of 4 "effective" days. The "allowable earnings" a claimant can be paid in a week and still be eligible for part-week unemployment benefits is set at $24.	640 of 1942
June 1943	The minimum weekly benefit is raised to $10; the maximum remains at $18.	672 of 1943

Effective date		Chapter and year
June 1945	The maximum weekly benefit is increased to $21; the minimum remains at $10.	646 of 1945
June 1948	The maximum weekly benefit is raised to $26.	363 of 1948
July 1951	Part-week benefits are payable at a fraction of weekly benefits, depending on the number of effective days accumulated within the week. The allowable earnings limit is set at $30.	645 of 1951
January 1952	The maximum weekly benefit is increased to $30; the minimum remains at $10. The rate is computed on average weekly wages, which are defined as base-period earnings divided by the number of weeks of base-period employment. Weeks in which earnings are less than $15 are excluded from the computation unless needed to satisfy entitlement requirements.	645 of 1951
July 1955	The maximum weekly benefit and the allowable earnings limit are raised to $36; the minimum weekly benefit remains at $10.	622 of 1955
July 1957	The maximum weekly benefit is raised to $45. Benefit rates of $36 or more are set at approximately 50 percent of average weekly wages up to the earnings limit specified.	387 of 1958
April 1958	The allowable earnings limit is raised to $45.	387 of 1958
July 1960	The maximum weekly benefit and the allowable earnings limit are increased to $50.	783 of 1960
July 1963	Unemployment benefits to claimants receiving company retirement pensions are made subject to reduction when the unemployment benefits are charged to an employer who financed at least half of the pension cost. The weekly benefit is reduced by half of all of the weekly pension amount, depending on whether the employer financed 50 to 99 percent, or 100 percent of the pension cost.	793 of 1963

Effective date		Chapter and year
July 1965	The maximum weekly benefit and the allowable earnings limit are increased to $55.	390 of 1965
September 1968	The maximum weekly benefit and the allowable earnings limit are increased to $65. The minimum weekly benefit is raised to $20, based on average weekly wages of $30. Benefits based on average weekly wages between $30 and $61 are increased slightly as a result of the increase in the minimum benefit amount and minimum weekly earnings requirement.	832 of 1968
September 1970	The maximum weekly benefit and the allowable earnings limit are raised to $75.	281 of 1970
July 1974	The maximum weekly benefit and the allowable earnings limit for part-week benefits are raised to $95. Benefit rates of $36 or higher continue to be based on half of the average weekly wage, up to the specified earnings limit.	583 of 1974
September 1977	The maximum weekly benefit is raised to $115. The allowable earnings limit is set at the "highest benefit rate applicable to any claimant" in the week. The minimum weekly benefit is raised to $25, based on an average weekly wage of $40. Effective in September 1978, the maximum weekly benefit will be $125.	675 of 1977

WAITING PERIOD

Effective date		Chapter and year
April 1935	A waiting period is established during which benefits are not paid—3 weeks in the first spell of unemployment and a maximum of 5 weeks in the benefit year—to give the administering agency time to process claims and to avoid paying benefits for short periods of unemployment.	468 of 1935
April 1938	The waiting period is changed to 3 consecutive weeks in the first spell of unemployment. The 5-week maximum waiting period in a benefit year is retained. Part of the waiting period may be served in the preceding benefit year.	10 of 1938
July 1939	Three weeks, consecutive or not, in the benefit year are set as the waiting period, part of which may be served in the preceding benefit year.	662 of 1939
June 1942	The waiting period is reduced to 2 weeks, part of which may be served in the preceding benefit year.	640 of 1942
November 1942	Eight effective days are set as the waiting period, all of which may be served in the preceding benefit year.	640 of 1942
June 1945	The waiting period is reduced to 4 effective days, all of which may be served in the preceding benefit year.	646 of 1945
July 1951	Four effective days remain as the waiting period, but the preceding benefit year must have expired.	645 of 1951
April 1956	In case of unemployment due to a major disaster, no waiting period will be required.	554 of 1956

DURATION OF BENEFITS

Effective date		Chapter and year
April 1935	Benefit duration varies to a maximum of 16 weeks—1 week of benefits for each 15 days worked in the 12 months preceding the benefit year.	468 of 1935
January 1937	Benefits are not to exceed one-sixth of earnings in the base period and vary from a minimum of 3 weeks to a maximum of 6 weeks.	142 of 1937
July 1939	A uniform 13 weeks of benefits are allowed. For April-May 1942, an additional 3 weeks of benefits were allowed for the transition to the new benefit year.	662 of 1939
June 1942	Benefit duration is increased to a uniform 20 weeks.	640 of 1942
November 1942	Benefit duration is a uniform 20 weeks, the equivalent of 80 effective days.	640 of 1942
June 1945	The duration period for benefits is increased to 26 weeks, the equivalent of 104 effective days.	646 of 1945
June 1958 (Temporary Federal program)	New York State signs an agreement with the U.S. Secretary of Labor to pay up to 13 additional weeks of benefits to persons who exhausted benefits between July 1, 1957 and April 1, 1958, under the Federal Temporary Unemployment Compensation Act (TUC) of 1958. The program was in effect until April 10, 1959.	
April 1959	Up to 13 additional weeks of benefits are payable to claimants who received one or more Federal TUC payments. Only claimants whose benefit year has not expired are eligible. This temporary State measure, enacted as a tapering-off device for TUC benefits, expired in July 1959.	229 of 1959
February 1961	Up to 13 additional weeks of benefits are payable to claimants who have exhausted their benefits, as long as the number of unemployment insurance exhaustions during 13 consecutive weeks total more than 1 percent of insured employment. This State program, legislated to expire in April 1962, was superseded in April 1961 by the Federal TEUC Act (see following item).	38 of 1961

Effective date		Chapter and year
April 1961	New York State agrees to pay up to 13 additional weeks of benefits to claimants who exhaust benefits between July 1, 1960 and April 1, 1962 under the Federal Temporary Extended Unemployment Compensation Act (TEUC) of 1961. This program was in effect until July 1, 1962.	194 of 1961
January 1971	New York agrees to provide extended benefits during recession periods in line with the Federal Employment Security Amendments of 1970. Up to 13 additional weeks of benefits are to be paid to exhaustees when the State unemployment rate for workers insured under unemployment insurance averages 4 percent or more for 13 consecutive weeks and is at least 120 percent of the average of the rate for the same periods in each of the preceding 2 years. An extended benefits period, which starts 3 weeks after the specified rates are reached, lasts a minimum of 13 weeks. Benefit costs are to be shared equally by the State and Federal governments.	2 of 1971
January 1972	The Extended Benefits Program applies to all states and becomes operative or "triggers on" when the seasonally adjusted unemployment rate of insured workers is 4.5 percent or more nationally in 3 consecutive months.	2 of 1971
January 1972 (Temporary Federal program)	New York agrees to act as agent State for the Federal Government to pay up to 13 additional weeks of emergency benefits under the Federal Emergency Unemployment Compensation Act of 1971 to persons who have exhausted extended benefits or who can not qualify for a new benefit year after their old benefit year has expired. The program was in effect in the State January 30-July 23, 1972.	2 of 1971
June 1973	The Governor is authorized to suspend by Executive Order the 120-percent trigger requirement for extended benefits if not in conflict with the Federal law (see January 1971 above).	492 of 1973

Effective date	

Temporary Federal Programs from 1975

January 1975	New York agrees to act as agent for the Federal Government: (1) to pay up to 13 weeks of emergency benefits, under the Emergency Unemployment Compensation Act of 1974, to persons who have exhausted extended benefits. (2) to pay up to 26 weeks of benefits, called Special Unemployment Assistance (SUA), under the Federal Emergency Jobs and Unemployment Assistance Act of 1974, to certain categories of workers whose employment is not covered by State law.
April 1975	Duration of emergency benefits is increased to 26 weeks under Federal legislation.
July 1975	Duration of SUA benefits is increased to 39 weeks under Federal legislation. (The program ends December 31, 1977 for new claimants and June 25, 1978 for all claimants, based on Federal legislation in 1976).
May 1977	Duration of emergency benefits is reduced to 13 weeks after April 1977 in accordance with Federal legislation. The program ends October 30, 1977 for new claimants and January 29, 1978 for all claimants in New York State.

ENTITLEMENT REQUIREMENTS

Effective date		Chapter and year
April 1935	To be eligible for benefits, a claimant must have 90 days of employment covered by unemployment insurance in the 12 months preceding the benefit year or 130 days of covered employment in the 24 months preceding the benefit year.	468 of 1935
January 1937	Claimant must have earnings in the base period of 18 times the benefit rate, with minimum annual earnings of $126.	142 of 1937
July 1939	Earnings requirement in the base period is increased to 25 times the benefit rate, with minimum earnings of $175 in the base period and $43 in the highest quarter.	662 of 1939
June 1943	Minimum earnings requirements are raised to $250 in the base period and $100 in the highest quarter as a result of an increase in the minimum benefit payment.	672 of 1943
June 1945	Qualifying earnings requirement in the base period is raised to 30 times the benefit rate, with minimum earnings of $300 in the base period and $100 in the highest quarter.	646 of 1945
July 1951	Work in 20 weeks in the base period is required, with average weekly earnings of $15 and minimum base period earnings of $300. Original claim must be "valid," that is, the claimant must meet all the eligibility requirements for benefits.	645 of 1951
July 1958	An alternate to the 20 weeks of work in the base period is provided: 15-19 weeks of work in the base period, with average weekly earnings of $15, and 40 weeks of work with average weekly earnings of $15 in the 2 years (104 weeks) before filing an original claim.	387 of 1958
August 1968	The minimum average weekly earnings requirement is raised to $30; the minimum number of weeks worked requirement is unchanged.	832 of 1968

BASE PERIOD

Effective date		Chapter and year
April 1935	The base period, the time period during which eligibility requirements must have been met, is set at (a) the 12 months preceding the benefit year or (b) the 24 months preceding the benefit year.	468 of 1935
January 1937	The first 4 of the last 5 complete calendar quarters preceding the benefit year are set as the base period.	142 of 1937
April 1938	The base period is changed to the calendar year preceding the benefit year. If the claimant is not entitled to benefits on this basis, the first 4 of the last 5 complete calendar quarters are used.	265 of 1938
July 1939	Base period is limited to the calendar year preceding the benefit year.	662 of 1939
July 1951	The base period is defined as the 52 weeks preceding the week of filing a valid original claim.	645 of 1951

BENEFIT YEAR

Effective date		Chapter and year
April 1935	The benefit year is set as the 52 weeks following the filing of the initial claim.	468 of 1935
April 1938	A uniform year beginning April 1 is the benefit year for all claimants.	265 of 1938
July 1942	June is set as the beginning of the uniform benefit year for all claimants.	2 of 1942
July 1951	The benefit year is defined as the 52 weeks starting the Monday after the week in which the valid original claim is filed.	645 of 1951

DISQUALIFICATIONS

Effective date		Chapter and year
	Unavailability and Incapability	
April 1935	Benefits are denied to a claimant who is unwilling or incapable of working in his usual occupation or any other for which he is fitted by training and experience until he convincingly evidences his availability and capability.	468 of 1935
	Job Refusal	
April 1935	Benefits are denied a claimant who refuses an offer of employment, except for the circumstances stipulated in Federal and State legislation. The disqualification can be lifted only by reemployment.	468 of 1935
April 1941	"Good cause" is added as an acceptable reason for job refusal. Withdrawal from the labor market is cause for denial of benefits.	
June 1958	A definite period of disqualification is legislated—6 weeks from the day of job refusal—and references to refusal for "good cause" and "bona fide" return to the labor market are eliminated.	387 of 1958
May 1960	To regain eligibility for benefits, a claimant must be employed for at least 3 days in each of 4 weeks or earn at least $200 after the disqualifying act.	783 of 1960
	Industrial Controversy	
April 1935	When unemployment is the result of an industrial dispute, benefits are withheld for an extended waiting period of 10 weeks (concurrent with the normal 3-week waiting period).	468 of 1935
September 1941	Benefits are suspended for 7 weeks from the day of loss of employment due to a dispute or until the end of the dispute, if earlier. The normal waiting period must also be served.	783 of 1941

Effective date	Industrial Controversy (continued)	Chapter and year
June 1958	The suspension period for withholding benefits continues as 7 weeks plus the normal waiting period of 4 effective days, from the day of loss of employment due to a dispute or until the end of a dispute, if earlier. However, suspension of benefits is to apply even if a claimant has had other employment before filing for benefits.	787 of 1958
	Voluntary Quit	
April 1941	Benefits are suspended for 6 weeks from day of the filing of a claim after job separation without good cause.	
	Voluntary job separation in order to withdraw from the labor market results in a disqualification until certification of a bona fide return to the labor market.	695 of 1941
June 1958	Suspension of benefits is for 6 weeks from day of job separation without good cause.	387 of 1958
May 1960	Disqualification from benefits is to continue until the claimant is reemployed on 3 days in each of 4 weeks or has earnings of $200 after job separation without good cause. Voluntary quit because of marriage or to follow a spouse to another locality automatically disqualifies a claimant.	783 of 1960
	Misconduct	
April 1935	When unemployment is the result of misconduct, benefits are suspended for an extended waiting period of 10 weeks (concurrent with the normal 3-week waiting period).	468 of 1935
September 1941	Benefits are denied for 7 weeks from day of job separation. The normal waiting period must also be served.	783 of 1941
June 1958	The disqualification period is reduced to 6 weeks from the day of job refusal plus the regular waiting period of 4 effective days.	387 of 1958

Effective date	Misconduct (continued)	Chapter and year
May 1960	To regain eligibility after a disqualifying misconduct act, a claimant must be reemployed on 3 days in each of 4 weeks or have earned $200. In the event of criminal misconduct—when a claimant is convicted of or admits in writing to a job-connected felony that brought about his discharge—benefits are denied for 12 months.	783 of 1960
	Willful Misstatement	
April 1935	A claimant who deliberately makes a false statement to obtain unemployment insurance benefits is guilty of a misdemeanor. No specific penalty or disqualification is stated in the law.	468 of 1935
January 1937	Benefits are denied for an extended waiting period of 10 weeks (concurrent with the normal 3-week waiting period).	142 of 1937
April 1940	A penalty is specified for the misdemeanor: a fine up to $500, or imprisonment for 1 year, or both.	404 of 1940
September 1941	Benefits are forfeited for a period of 5 to 13 weeks following the discovery of the willful misstatement and total potential benefits reduced accordingly. The claimant is also subject to the misdemeanor penalty.	783 of 1941
November 1942	The forfeiture period is changed to 5 to 20 weeks. The claimant is still subject to the misdemeanor penalty.	640 of 1942
April 1968	The forfeiture period is changed to 1 to 20 weeks; the misdemeanor penalty may also be imposed.	139 of 1968

N.B.: When willful misstatement occurs in connection with any other circumstance subject to disqualification, the disqualification for the other circumstance is also imposed.

Effective date		Chapter and year
	Disqualifying Income	
July 1958	Workers receiving vacation pay during a plant shutdown are not eligible for benefits if they were fully employed in the week before and after the vacation shutdown.	387 of 1958
April 1963	Benefits are not payable to a claimant for any day during a paid vacation period or paid holiday.	794 of 1963
June 1963	Weekly benefits are reduced for claimants receiving company retirement pensions if the employer financed 50 percent or more of the pension plan and would be charged for benefits paid.	793 of 1963
January 1972	A provision denying benefits based on state employment to retirees is repealed. Former State employees on retirement are subject to a pension deduction on the same basis as other retirees.	1027 of 1971
	Educational Personnel and Professional Athletes	
January 1972	Teachers, research workers or administrators in educational institutions are not eligible for benefits between successive academic years or 2 regular terms if they have a contract of employment for both periods.	1027 of 1971
January 1978	Above provision is modified to include "reasonable assurance" of continuing employment as ground for denial of benefits to professional school personnel. Denial of benefits is extended to nonprofessional staff of elementary and high schools between 2 successive academic years or terms or during school vacation or holiday periods if they have a contract for continuing employment.	
	Professional athletes with reasonable assurance of continuing employment are denied benefits between 2 successive sports seasons. Benefits are denied to illegal aliens.	675 of 1977

STATE FINANCING

Effective date		Chapter and year
April 1935	New York State Unemployment Insurance Law is enacted providing for a statewide pooled fund for contributions collected from employers of four or more workers in the types of employment covered. Tax provisions are effective January 1936.	468 of 1935
January 1936	A uniform tax of 1 percent is levied on total wages paid to employees covered under the law.	468 of 1935
January 1937	The tax is raised to a uniform 2 percent on total wages paid to covered employees.	468 of 1935
January 1938	The tax is raised to a uniform 3 percent, but is assessable only on the first $3,000 of wages paid to each worker covered under the law.	468 of 1935
January 1940	The uniform tax is reduced to 2.7 percent of taxable payrolls, the maximum State unemployment insurance payment which could be credited against the 3 percent Federal tax.	369 of 1940
July 1945	Limited experience rating is instituted in the form of the Tax Credit Plan. Under this plan the Unemployment Insurance Trust Fund's legal reserve is 10.8 percent of annual taxable payrolls. The surplus is distributed to employers in the form of credits against future tax liabilities. Total tax credits in any one year cannot exceed 60 percent of the annual contributions due at 2.7 percent. The individual employer's experience with unemployment is measured by three factors: (1) the annual factor, related to the percentage decrease in an employer's annual taxable payrolls; (2) the quarterly factor, related to the percentage decrease in an employer's quarterly total payrolls; and (3) the age factor, a point score based on the number of years an employer has been in the unemployment insurance system. Based on the total score for the three factors, an employer is assigned to one of six experience classes for determining the amount of tax credit to which he is entitled.	646 of 1945

Effective date		Chapter and year
April 1947	The legal reserve in the State Unemployment Insurance Trust Fund under the Tax Credit Plan is reduced from 10.8 percent to 9.45 percent of annual taxable payrolls. A benefit-wage factor (wages earned by claimants from base-year employers in relation to employer taxable payrolls) is substituted for the annual payroll factor.	809 of 1947
June 1947	Coverage is extended to employees of the State of New York, the State to reimburse the Fund for benefits paid to its former employees.	507 of 1947
March 1948	The legal reserve in the Unemployment Insurance Trust Fund is reduced to $900 million, or 9.45 percent of taxable payrolls, whichever is less.	363 of 1948
April 1948	Municipal corporations and other governmental subdivisions that elect voluntary coverage are to reimburse the Fund for benefits paid their former employees rather than pay an assigned tax rate.	844 of 1948
April 1951	The Unemployment Insurance Law is amended to eliminate the Tax Credit Plan and the concept of a legal reserve. A new experience rating system is established, effective with tax rates for 1952. Under the new system rates lower than 2.7 percent are assigned to employers on the basis of the condition of the State Unemployment Insurance Fund and the experience of the individual employer with unemployment. The condition of the Fund is measured by the Size-of-Fund Index—the ratio of the reserve in the Fund on July 1 to statewide annual taxable payrolls. Eight schedules of tax rates are set up, the applicable schedule for any year depending upon the Size-of-Fund Index. Assignment of a rate to an individual firm depends upon its experience rating. The employer's experience is measured by four factors: (1) annual factor; (2) quarterly factor; (3) age factor; and (4) benefit factor. The benefit factor has the strongest effect on the employer's rating and is based on the balance in the employer's account in relation to his annual taxable payroll. The employer's account is an individual account set up in the Fund for each firm as a bookkeeping device only, to which contributions are credited and benefits are charged.	

Effective date		Chapter and year
April 1951 (continued)	To qualify for experience rating, an employer must have been in the unemployment insurance system for 14 full quarters before the July 1 tax computation date; had no negative balance in his account on July 1 in any of the preceding 3 years; paid some wages in the last calendar year; and filed all required contribution reports within the specified time limit. Employers not qualified for experience rating are to pay the full 2.7 percent rate of taxable payrolls.	
	A General Account is set up as a bookkeeping device to monitor the condition of the Fund. The General Account is charged with negative balances transferred from individual employer accounts and benefits and refunds not chargeable to individual firms. It is credited with interest on the Fund, balances of employers no longer in the system, and other income. Provision is made for a subsidiary tax on employers ranging from 0.5 percent to 1.0 percent of taxable payrolls when the General Account is less than 1.5 percent of taxable payrolls.	645 of 1951
April 1955	The subsidiary tax schedule is amended to range from a minimum of 0.1 percent to a maximum of 1.0 percent of taxable payrolls.	415 of 1955
July 1956	The minimum length of employer coverage required for experience rating is reduced from 14 to 4 full calendar quarters before the computation date.	829 of 1956
April 1958	Provisions with respect to the General Account are modified as follows: (1) Addition of a provision to divert amounts from individual accounts in order to replenish the General Account. The rate of diversion varies from 0.1 percent to 0.5 percent of taxable payrolls, depending on the General Account balance. (2) Imposition of a cash subsidiary contribution if the General Account, after taking into account the results of diversion, is still below $100 million. (3) Retention in an employer's account of a negative balance of up to 2 percent of his taxable payroll, thus reducing charges to the General Account.	

Effective date		Chapter and year
April 1958 (continued)	Generally, the tax schedule is increased, effective in 1959, by changes in the Size-of-Fund Index, so that larger reserves are required before more favorable rates are applicable, and by raising tax rates for each of the employer's experience factor scores. Two rate classes are added to each schedule to provide lower rates for employers with the best experience. Firms with negative accounts will pay (a) 3 percent in the first calendar year following a negative balance; (b) at least 2.7 percent in the 3 succeeding calendar years, if part of their negative balance has been transferred to the General Account; and, (c) starting with taxes paid in 1960, 3.2 percent if they show negative balances for the 2 preceding fiscal years ending on June 30. Delinquent firms failing to file required reports on time will pay 3 percent in the following calendar year.	387 of 1958
July 1959	An employer is permitted to make voluntary contributions to the Fund in order to raise his account balance and thus reduce his tax rate for the next year, beginning with 1961 tax rates.	770 of 1959
January 1963	Municipal corporations and other governmental subdivisions that elect voluntary coverage for their employees may either pay an assigned tax rate or reimburse the Unemployment Insurance Fund for benefits paid to former employees.	901 of 1962
April 1963	The employer's quarterly and annual payroll variations and his period of coverage are eliminated in the experience rating formula. The benefit factor is retained as the sole factor in employers' experience rating. The benefit factor (employer account percentage) is the balance in the employer's account as a percentage of his annual taxable payroll and is related directly to the Size-of-Fund schedule in establishing the contribution rate. The rate for employers whose negative account balances are transferred to the General Account within the 4 preceding payroll years is restricted to not less than 2.9 percent.	

Effective date		Chapter and year
April 1963 (continued)	The computation date is changed from July 1 to December 31—so that the rate is based on most recent experience—and the payroll year is the 12-month period ending September 30.	
	The provision for diversion of amounts from employer accounts to the General Account is eliminated.	630 of 1963
March 1966	Rate schedule for subsidiary contributions is revised. To reduce the year-to-year fluctuations in rates, a subsidiary tax is to be imposed only when the General Account balance is below $120 million. The tax is to range from 0.1 to 1.0 percent of taxable payrolls, depending on the size of the General Account balance. The rate varies by 0.1 percent intervals up to the maximum 1.0 percent when the balance is less than $120 million.	108 of 1966
December 1970	Year-to-year increase in the subsidiary tax rate is limited to a maximum of 0.3 percent.	48 of 1971
January 1971	Account balances of nonprofit organizations covered before 1969 (largely on a voluntary basis) are to be credited against benefit charges to those organizations that elect to reimburse the Fund for benefits paid instead of tax contributions.	1027 of 1971
January 1972	Annual taxable wage base is increased to $4,200. A transitional provision compensates for the new tax wage base by reducing rates calculated on the old account percentage basis by 20 percent for 1972. For employers with rates not based on their account percentage, tax rates for 1972 are set as follows: new employers and employers who paid no remuneration in the payroll year will pay 2.3 percent; employers who are late in reporting and employers with a negative balance transferred to the General Account within the 3 preceding payroll years will pay 2.7 percent. A range of rates from 2.4 percent to 2.8 percent is set for employers with negative account balances. These rates do not include subsidiary taxes.	565 of 1971

Effective date		Chapter and year
May 1972	The maximum tax rate of 2.7 percent is established for newly covered employers (fewer than 5 calendar quarters of coverage).	208 of 1972
January 1973	For 1973 and 1974 the tax rate schedule sets rates for negative account employers on the basis of their account percentage and the number of tax rate classes for employers with positive account balances is increased. New employers and employers who paid no remuneration in the payroll year will pay the same tax rate as employers with positive account percentages under 1 percent. Employers late in reporting and employers with a negative balance transferred to the General Account within 3 preceding payroll years will pay at least 2.7 percent. Employers primarily engaged in freezing or canning locally grown fruits or vegetables may elect to pay a fixed tax rate of 3.2 percent for 3 years instead of a tax based on experience rating. Rates specified do not include subsidiary taxes; however, the total tax rate—regular and subsidiary—for any employer may not be lower than 0.3 percent.	565 of 1971
February 1974	Employer's tax rate will be corrected whenever established, if the change results from a referee, appeal board or court decision.	12 of 1974
July 1974	Rates of contribution established for 1973 and 1974 are extended through 1977.	583 of 1974
January 1978	Annual tax wage base is increased to $6,000. Employers in the apparel and construction industries may elect to pay a fixed tax rate for 3 years instead of a tax based on experience rating. The fixed rate is 3.2 percent in the construction industry and 3 percent in the apparel industry. Rates of contribution as modified by 1977 legislation will continue through June 30, 1981.	675 of 1977